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SENATE CLOTURE RULE

LIMITATION OF DEBATE IN THE CONGRESS OF THE UNITED STATES

and

LEGISLATIVE HISTORY OF PARAGRAPH 2 OF RULE XXII OF THE STANDING RULES OF THE UNITED STATES SENATE (CLOTURE RULE)

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COMMITTEE ON RULES AND ADMINISTRATION
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LETTER OF SUBMITTAL

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 28, 1985.

Hon. CHARLES McC. MATHIAS, Jr.,
Chairman, Senate Committee on Rules and Administration,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to be able to submit to you the update requested by your Committee on the cloture rule of the United States Senate. These incorporations extend, through the final adjournment of the 98th Congress in October 1984, the information on the development and use of the cloture rule that was contained in the 1979 edition of this print. This updating also covers recent cloture practice developments, thereby adding to the more general information that earlier editions of the Committee print contained on the history of limiting debate in the United States Senate.

As with the work the Service has done for your Committee to revise this Committee print on several previous occasions, this revision has been prepared by the Government Division and the Library Services Division of the Service. Richard Beth coordinated the entire project; Mildred Amer prepared the data presented in tabular form; and both of these analysts contributed to the short narratives of extended debate situations in the Senate. Stanley Bach compiled the new selection of Standing Rules of the Senate relating to debate; Sherry Shapiro prepared the completely revised bibliography; and Carol Hardy brought up to date the chronological list of articles from Congressional Quarterly on the filibuster and cloture.

Since the Committee last issued a revised edition of this document, several events have taken place that indicate a continuation of interest in the role and regulation of debate in the Senate. Among those events are the Senate's amendment of paragraph 2 of Rule XXII in 1979 and recommendations in 1983 and 1984, from several sources within the Senate, for further changes in this Rule. This period has also seen significant discussions of the Rule and its operation on the Senate floor, particularly during 1982, 1983, and 1984.

It is because of the continuing interest in debate and cloture that I am particularly pleased to transmit this latest revision of the print to the Committee, in the anticipation that it will serve as a useful resource to the Senate as it continues to address the questions that are related to the cloture rule.

Sincerely,

GILBERT GUDE, *Director.*

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PART 1

LIMITATION OF DEBATE IN THE CONGRESS OF THE UNITED STATES

A COMPENDIUM, INCLUDING A SELECT BIBLIOGRAPHY

(September 4, 1985)

STANDING RULES RELATING TO DEBATE

RULE VI—QUORUM—ABSENT SENATORS MAY BE SENT FOR

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3. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

4. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, or to recess pursuant to a previous order entered by unanimous consent, shall be in order.

RULE VII—MORNING BUSINESS

* * * * * * *

3. The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate, any bill or other matter sent to the Senate by the President or the House of Representatives for appropriate action allowed under the rules and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate.

4. Petitions or memorials shall be referred, without debate, to the appropriate committee according to subject matter on the same basis as bills and resolutions, if signed by the petitioner or memorialist. A question of receiving or reference may be raised and determined without debate. But no petition or memorial or other paper signed by citizens or subjects of a foreign power shall be received, unless the same be transmitted to the Senate by the President.

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RULE VIII—ORDER OF BUSINESS

1. At the conclusion of the morning business at the beginning of a new legislative day, unless upon motion the Senate shall at any time otherwise order, the Senate shall proceed to the consideration of the Calendar of Bills and Resolutions, and shall continue such consideration until 2 hours after the Senate convenes on such day (the end of the morning hour); and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any

question; and an objection may be interposed at any stage of the proceedings, but upon motion the Senate may continue such consideration; and this order shall commence immediately after the call for "other resolutions", or after disposition of resolutions coming "over under the rule", and shall take precedence of the unfinished business and other special orders. But if the Senate shall proceed on motion with the consideration of any matter notwithstanding an objection, the foregoing provisions touching debate shall not apply.

2. All motions made during the first two hours of a new legislative day to proceed to the consideration of any matter shall be determined without debate, except motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable. Motions made after the first two hours of a new legislative day to proceed to the consideration of bills and resolutions are debatable.[2]

Rule X—Special Orders

1. Any subject may, by a vote of two-thirds of the Senators present, be made a special order of business for consideration and when the time so fixed for its consideration arrives the Presiding Officer shall lay it before the Senate, unless there be unfinished business in which case it takes place on the Calendar of Special Orders in the order of time at which it was made special, to be considered in that order when there is no unfinished business.

2. All motions to change such order, or to proceed to the consideration of other business, shall be decided without debate.

Rule XI—Papers—Withdrawal, Printing, Reading of, and Reference

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3. When the reading of a paper is called for, and objected to, it shall be determined by a vote of the Senate, without debate.

* * * * * * *

Rule XII—Voting Procedure

1. When the yeas and nays are ordered, the names of Senators shall be called alphabetically; and each Senator shall, without debate, declare his assent or dissent to the question, unless excused by the Senate; and no Senator shall be permitted to vote after the decision shall have been announced by the Presiding Officer, but may for sufficient reasons, with unanimous consent, change or withdraw his vote. No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

2. When a Senator declines to vote on call of his name, he shall be required to assign his reasons therefor, and having assigned them, the Presiding Officer shall submit the question to the

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[2] Under the precedents of the Senate, motions to proceed to consider veto messages, like those for other privileged matters, are not debatable. See "Vetoes" (including Article I, section 7, of the Constitution) and "Privileged Business" in Riddick, Floyd M. Senate Procedure: Precedents and Practices. Washington, U.S. Govt. Print. Off., 1981. (S. Doc. 97-2. 97th Congress, 1st Session). p. 830-832, 1113-1116.

Senate: "Shall the Senator for the reasons assigned by him, be excused from voting?" which shall be decided without debate; and these proceedings shall be had after the rollcall and before the result is announced; and any further proceedings in reference thereto shall be after such announcement.

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RULE XIII—RECONSIDERATION

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2. When a bill, resolution, report, amendment, order, or message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider shall be accompanied by a motion to request the House to return the same; which last motion shall be acted upon immediately, and without debate, and if determined in the negative shall be a final disposition of the motion to reconsider.

RULE XIV—BILLS, JOINT RESOLUTIONS, RESOLUTIONS, AND PREAMBLES THERETO

* * * * * * *

3. No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee; bills and joint resolutions introduced on leave, and bills and joint resolutions from the House of Representatives, shall be read once, and may be read twice, if not objected to, on the same day for reference, but shall not be considered on that day nor debated, except for reference, unless by unanimous consent.

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RULE XV—AMENDMENTS AND MOTIONS

1. All motions and amendments shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before the same shall be debated.

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3. If the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, which shall not be divided; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor shall it prevent a motion simply to strike out; nor shall the rejection of a motion to strike out prevent a motion to strike out and insert. But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

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RULE XVI—APPROPRIATIONS AND AMENDMENTS TO GENERAL APPROPRIATIONS BILLS

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4. On a point of order made by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any such amendment or restriction to a general appropriation bill may be laid on the table without prejudice to the bill.

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RULE XVII—REFERENCE TO COMMITTEES; MOTIONS TO DISCHARGE; REPORTS OF COMMITTEES; AND HEARINGS AVAILABLE

1. Except as provided in paragraph 3, in any case in which a controversy arises as to the jurisdiction of any committee with respect to any proposed legislation, the question of jurisdiction shall be decided by the Presiding Officer, without debate, in favor of the committee which has jurisdiction over the subject matter which predominates in such proposed legislation; but such decision shall be subject to an appeal.

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3. (a) Upon motion by both the majority leader or his designee and the minority leader or his designee, proposed legislation may be referred to two or more committees jointly or sequentially. Notice of such motion and the proposed legislation to which it relates shall be printed in the Congressional Record. The motion shall be privileged, but it shall not be in order until the Congressional Record in which the notice is printed has been available to Senators for at least twenty-four hours. No amendment to any such motion shall be in order except amendments to any instructions contained therein. Debate on any such motion, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than two hours, the time to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

* * * * * * *

RULE XIX—DEBATE

1. (a) When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall

first address him.[3] No Senator shall interrupt another Senator in debate without his consent, and to obtain such consent he shall first address the Presiding Officer, and no Senator shall speak more than twice upon any one question in debate on the same legislative day without leave of the Senate, which shall be determined without debate.

(b) At the conclusion of the morning hour at the beginning of a new legislative day or after the unfinished business or any pending business has first been laid before the Senate on any calendar day, and until after the duration of three hours of actual session after such business is laid down except as determined to the contrary by unanimous consent or on motion without debate, all debate shall be germane and confined to the specific question then pending before the Senate.

2. No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

3. No Senator in debate shall refer offensively to any State of the Union.

4. If any Senator, in speaking or otherwise, in the opinion of the Presiding Officer transgress the rules of the Senate the Presiding Officer shall, either on his own motion or at the request of any other Senator, call him to order; and when a Senator shall be called to order he shall take his seat; and may not proceed without leave of the Senate, which, if granted, shall be upon motion that he be allowed to proceed in order, which motion shall be determined without debate. Any Senator directed by the Presiding Officer to take his seat, and any Senator requesting the Presiding Officer to require a Senator to take his seat, may appeal from the ruling of the chair, which appeal shall be open to debate.

5. If a Senator be called to order for words spoken in debate, upon the demand of the Senator or of any other Senator, the exceptionable words shall be taken down in writing, and read at the table for the information of the Senate.

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Rule XXI—Questions of Order

1. A question of order may be raised at any stage of the proceedings, except when the Senate is voting or ascertaining the presence of a quorum, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate. When an appeal is taken, any subsequent question of order which may arise before the decision of such appeal shall be decided by the Presiding Officer without debate; and every appeal therefrom shall be decided at once, and without debate; and any appeal may be laid on the table without prejudice to the pending proposi-

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[3] Under the precedents of the Senate, the Majority and Minority Floor Leaders are entitled to preferential recognition when they address the Chair simultaneously with other Senators. See "Recognition" in Riddick, Senate Procedure, p. 878, 883.

tion, and thereupon shall be held as affirming the decision of the Presiding Officer.

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RULE XXI—SESSION WITH CLOSED DOORS

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2. When the Senate meets in closed session, any applicable provisions of rules XXIX and XXXI, including the confidentiality of information shall apply to any information and to the conduct of any debate transacted.

RULE XXII—PRECEDENCE OF MOTIONS

1. When a question is pending, no motion shall be received but—
To adjourn.
To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.
To take a recess.
To proceed to the consideration of executive business.
To lay on the table.
To postpone indefinitely.
To postpone to a day certain.
To commit.
To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

2. Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"Is it the sense of the Senate that the debate shall be brought to a close?"

And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except

by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second. No dilatory motion or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

After no more than one hundred hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The one hundred hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

Rule XXVIII—Conference Committees; Reports; Open Meetings

1. The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is voting or ascertaining the presence of a quorum; and

when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

* * * * * * *

5. If time for debate in the consideration of any report of a committee of conference upon the floor of the Senate is limited, the time allotted for debate shall be equally divided between the majority party and the minority party.

* * * * * * *

CHRONOLOGICAL HISTORY OF EFFORTS TO LIMIT DEBATE IN THE SENATE

In 1604, the practice of limiting debate in some form was introduced in the British Parliament by Sir Henry Vane. It became known in parliamentary procedure as the "previous question" and is described in Section 34 of Jefferson's Manual of Parliamentary Practice, as follows:

"When any question is before the House, any member may move a previous question, whether that question (called the main question) shall not be put. If it pass in the affirmative, then the main question is to be put immediately, and no man may speak anything further to it, either to add or alter."

In 1778, the Journals of the Continental Congress also show that the "previous question" was used. Section 10 of the Rules of the Continental Congress states: "When a question is before the House no motion shall be received unless for an amendment, for the previous question, to postpone the consideration of the main question, or to commit it." In the British Parliament and the Continental Congress the "previous question" was used to avoid discussion of a delicate subject or one which might have injurious consequences.

1789—The first Senate adopted 20 rules of which the following relate to debate in, and taking the time of, the Senate:

* * * * *

2. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the Journals or public papers are reading, or when any Member is speaking in any debate.

3. Every Member, when he speaks, shall address the Chair, standing in his place, and when he has finished shall sit down.

4. No Member shall speak more than twice in any one debate on the same day, without leave of the Senate.

5. When two Members shall rise at the same time, the President shall name the person to speak; but in all cases the first rising shall speak first.

6. No motion shall be debated until the same shall be seconded.

* * * * *

8. When a question is before the Senate, no motion shall be received unless for an amendment, for the previous question, or for postponing the main question, or to commit, or to adjourn.

9. The previous question being moved and seconded, the question from the Chair shall be: "Shall the main question

be now put?" And if the nays prevail, the main question shall not then be put.

* * * * *

11. When the yeas and nays shall be called for by one-fifth of the members present, each Member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question.

* * * * *

1806—When the rules were modified in 1806, reference to the previous question was omitted. It had been used only three times during the 17 years from 1789 to 1806.

1807—In the following year, 1807, debate on an amendment at the third reading of a bill was forbidden. From this time until 1846 there were not further limitations on debate in the Senate.

1841—On July 12, 1841, Henry Clay brought forth a proposal for the introduction of the "previous question," which he stated was necessitated by the abuse which the minority had made of the privilege of unlimited debate. In opposing Clay's motion, Senator Calhoun said, "There never had been a body in this or any other country in which, for such a length of time, so much dignity and decorum of debate had been maintained." Clay's proposition met with considerable opposition and was abandoned. Clay also proposed adoption of the "hour rule" for the same purpose, but that proposal was also abandoned.

1846—In 1846, consideration of the Oregon bill prompted the use of the unanimous consent agreement, a form of cloture, to limit debate by fixing a day for a vote. Since that time, such agreements have been used frequently to fix an hour at which the Senate will vote, without further debate, on a pending proposal.

1850—On July 27, 1850, Senator Douglas submitted a resolution permitting the use of the "previous question." The resolution was debated and laid on the table after considerable opposition had been expressed.

1862—As the business to be transacted by the Senate increased, proposals to limit debate were introduced frequently in the following Congresses, but none was adopted until the Civil War. On January 21, 1862, Senator Wade introduced a resolution stating that "in consideration in secret session of subjects relating to the rebellion, debate should be confined to the subject matter and limited to five minutes, except that five minutes be allowed any member to explain or oppose a pertinent amendment." On January 29, 1862, the resolution was debated and adopted.

1868—In 1868 a rule was adopted providing that: "Motions to take up or to proceed to the consideration of any question shall be determined without debate, upon the merits of the question proposed to be considered." The object of this rule, according to Senator Edmunds, was to prevent a practice which had

developed in the Senate, "when a question was pending, and a Senator wished to deliver a speech on some other question, to move to postpone the pending order to deliver their [sic] speech on the other question." According to Mr. Trumbull the object of the rule was to prevent the consumption of time in debate over business to be taken up. The rule was interpreted as preventing debate on the merits of a question when a proposal to postpone it was made.

1869—A resolution pertaining to the adoption of the "previous question" was introduced in 1869, and three other resolutions limiting debate in some form were introduced in the first half of 1870.

1870—The Senate, on appeal, sustained decision of the Chair that a Senator may read in debate a paper that is irrelevant to the subject matter under consideration (July 14, 1870).

1870—On December 6, 1870, in the third session of the Forty-first Congress, Senator Anthony, of Rhode Island, introduced the following resolution: "On Monday next, at one o'clock, the Senate will proceed to the consideration of the Calendar and bills that are not objected to shall be taken up in their order; and each Senator shall be entitled to speak once and for five minutes, only, on each question; and this order shall be enforced daily at one o'clock 'till the end of the Calendar is reached, unless upon motion, the Senate should at any time otherwise order." On the following day, December 7, 1870, the resolution was adopted. This so-called Anthony rule for the expedition of business was the most important limitation of debate yet adopted by the Senate. The rule was interpreted as placing no restraints upon the minority, however, inasmuch as a single objection could prevent its application to the subject under consideration. [Now Rule VIII, 1.]

1871—On February 22, 1871, another important motion was adopted which had been introduced by Senator Pomeroy and which allowed amendments to appropriation bills to be laid on the table without prejudice to the bill.

1872—In 1872 the Senate established as a precedent that no Senator can be removed from the floor for irrelevancy in a debate. The precedent has remained in force to the present time.

1872—On April 19, 1872, a resolution was introduced, "that during the remainder of the session it should be in order, in the consideration of appropriation bills, to move to confine debate by any Senator, on the pending motion to five minutes." On April 29, 1982, this resolution was finally adopted, 33 yeas to 13 nays. The necessity for some limitation of debate to expedite action on these annual supply measures caused the adoption of similar resolutions at most of the succeeding sessions of Congress.

1873—In March 1873, Senator Wright submitted a resolution reading in part that debate shall be confined to and be relevant to the subject matter before the Senate—etc., and that the previous question may be demanded by a majority vote or in some modified form. On a vote in the Senate to consider this resolution the nays were 30 and the yeas 25.

1879—The Chair counted a quorum to determine whether enough Senators were present to do business.

1880—From 1873 to 1880 nine other resolutions were introduced confining and limiting debate in some form. On February 3, 1880, in the second session of the Forty-sixth Congress, the famous Anthony rule which was first adopted on December 7, 1870, was made a standing rule of the Senate as Rule VIII. In explaining the rule, Senator Anthony said: "That rule applies only to the unobjected cases on the Calendar, so as to relieve the Calendar from the unobjected cases. There are a great many bills that no Senator objects to, but they are kept back in their order by disputed cases. If we once relieve the Calendar of unobjected cases, we can go thru with it in order without any limitation of debate. That is the purpose of the proposed rule. It has been applied in several sessions and has been found to work well with the general approbation of the Senate."

1881—On February 16, 1881, a resolution to amend the Anthony rule was introduced. It proposed to require the objection of at least five Senators to pass over a bill on the Calendar. The resolution was objected to as a form of "previous question," and defeated. Senator Edmunds in opposing the resolution said: "I would rather that not a single bill shall pass between now and the 4th day of March than to introduce into this body (which is the only one where there is free debate and the only one which can under its rules discuss freely measures of importance or otherwise) a provision which does in effect operate to carry a bill either to defeat or success with only a five or fifteen minutes' debate and one or two Senators on a side speaking. I think it is of greater importance to the public interest, in the long run and in the short run, that every bill on your Calendar should fail than that any Senator should be cut off from the right of expressing his opinion and the grounds of it upon every measure that is to be voted upon here * * *."

1881—The Senate agreed that for the remainder of the session to limit debate to 15 minutes on a motion to consider a bill or resolution and that no Senator speak more than once or for longer than 5 minutes (February 12, 1881).

1882—On February 27, 1882, the Anthony rule was amended by the Senate, so that if the majority decided to take up a bill on the Calendar after objection was made the ordinary rules of debate without limitation would apply. The Anthony rule could only work when there was no objection whatever to any bill under consideration. When the regular morning hour was not found sufficient for the consideration of all unobjected cases on the Calendar, special times were often set aside for the consideration of the Calendar under the Anthony rule.

1882—On March 15, 1882, a rule was considered whereby "a vote to lay on the table a proposed amendment shall not carry with it the pending measure." In reference to this rule Senator Hoar (Massachusetts, R.), said: "Under the present rule it is in the power of a single member of the Senate to compel

practically the Senate to discuss any question whether it wants to or not and whether it be germane to the pending measure or not * * *. The proposed amendment to the rules simply permits, after the mover of the amendment, who of course has the privilege, in the first place, has made his speech, a majority of the Senate if it sees fit to dissever that amendment from the pending measure and to require it to be brought up separately at some other time or not at all." This proposed rule is now paragraph 4 of Rule XV of the Standing Rules of the Senate.

1883—On December 10, 1883, Senator Frye, of Maine, Chairman of the Committee on Rules, reported a general revision of the Senate Rules. This revision included a provision for the "previous question." Amendments in the Senate struck this provision out.

1884—On January 11, 1884, the Senate Rules were revised and adopted.

On March 19, 1884, two resolutions introduced by Senator Harris were considered and agreed to by the Senate as follows:

(1) "That the eighth rule of the Senate be amended by adding thereto: All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate."

(2) "That the tenth rule of the Senate be amended by adding thereto: All motions to change such order or to proceed to the consideration of other business shall be decided without debate."

From this time until 1890 there were 15 different resolutions introduced to amend the Senate Rules as to limitations of debate, all of which failed of adoption.

1884—The Senate agreed (March 17) to amend Rule VII by adding thereto the following words:

"The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate."

1886—The Senate agreed to strike out the words, "without debate," from that part of Rule XIII which provided that "every motion to reconsider shall be decided by a majority vote." (June 21, 1886).

1890—Senators Hoar, Blair, Edmunds, and Quay submitted various resolutions for limiting debate in various ways (August 1890).

1890—On December 29, 1890, Senator Aldrich, introduced a cloture resolution in connection with Lodge's "force bill," which was being filibustered. The resolution read, in part, as follows: "When any bill, resolution, or other question shall have been under consideration for a considerable time, it shall be in order for any Senator to demand that debate thereon be closed. On such demand no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made * * *." There were five test votes on

the cloture proposal which "commanded various majorities, but in the end it could not be carried in the Senate because of a filibuster against it which merged into a filibuster on the 'force bill.' "

1893—Senators Platt, Hoar, Hill, and Gallinger introduced resolutions for cloture by majority action during a filibuster against repeal of the Silver Purchase Law, which evoked extended discussion.

1893—Senator Sherman (Ohio) urged a study of Senate Rules with a view to their revision and the careful limitation of debate.

1897—The Chair ruled on March 3, 1897, that quorum calls could not be ordered unless business had intervened.

1902—The Senate agreed (April 8) to amend Rule XIX by inserting at the beginning of clause 2 the following:

"No Senator in debate shall directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

"No Senator in debate shall refer offensively to any State of the Union."

1908—Three important interpretations of the Rules were adopted in the course of the filibuster against the Aldrich-Vreeland Currency Bill: (1) the Chair might count a quorum, if one were physically present, even on a vote, whether or not Senators answered to their names; (2) mere debate would not be considered business, and therefrom more than debate must take place between quorum calls; (3) Senators could by enforcement of the rules be restrained from speaking on the same subject more than twice in the same day.

1911—On April 6, 1911, Senator Root, of New York, submitted a resolution requesting the Committee on Rules to suggest an amendment to the Standing Rules whereby the Senate could obtain more effective control over its procedure. No action was taken on the resolution.

1914—Senator Smith (Georgia) proposed a rule of relevancy.

1914—The Senate decreed, September 17, that Senators could not yield for any purpose, even for a question, without unanimous consent; but reversed itself on this ruling the next day, September 18.

1915—On February 8, 1915, Senator Reed, of Missouri, introduced a resolution to amend Rule XXII whereby debate on the Ship Purchase Bill, "S. 6845 shall cease, and the Senate shall proceed to vote thereon * * *." The resolution did not pass in this session.

1916—From December 1915 to September 8, 1916, the first or "long" session of the 64th Congress, there were five resolutions introduced to amend Rule XXII. The resolutions acted upon were S. Res. 131 and S. Res. 149. On May 16, 1916, the Committee on Rules reported out favorably S. Res. 195 as a substitute for S. Res. 131 and S. Res. 149, which had been referred to it, and submitted a report (No. 447). The resolution, providing for two-thirds' cloture by those voting, was debated but did not come to a vote.

1916 and 1920—The Democratic national platforms for both years included a statement that: "We favor such alteration of the Rules of procedure of the Senate of the United States as will permit the prompt transaction of the Nation's legislative business."

1917—On March 4, 1917, President Wilson made a speech in which he referred to the Armed Ship Bill, defeated by filibustering. The President said in part, "The Senate has no rules by which debate can be limited or brought to an end, no rules by which debating motions of any kind can be prevented. * * * The Senate of the U.S. is the only legislative body in the world which cannot act when its majority is ready for action. * * * The only remedy is that the Rules of the Senate shall be altered that it can act. * * *"

1917—On March 5, 1917, the Senate was called in extraordinary session by the President because of the failure of the Armed Ship Bill in the 64th Congress.

On March 7, 1917, Senator Walsh of Montana introduced a cloture resolution (S. Res. 5), authorizing a committee to draft a substitute for Rule XXII, limiting debate. Senator Martin also introduced a resolution amending Rule XXII (similar to S. Res. 195, favorably reported by the Committee on Rules in the 64th Congress). The Martin resolution was debated at length and adopted March 8, 1917, 76 yeas, 3 nays. It provided for cloture on a "pending measure" if two-thirds of those present and voting so voted.

1918—On May 4, 1918, Senator Underwood introduced a resolution (S. Res. 235) further amending Rule XXII, re-establishing the use of the "previous question," and limiting debate during the war period. On May 31, 1918, the Committee on Rules favorably reported out S. Res. 235 with a report (No. 472).

The Senate debated the resolution and Senator Borah offered an amendment on June 3, 1918. On June 11, 1918, the Senate further debated the resolution and a unanimous consent agreement was reached to vote on the measure. The resolution was further amended, by Senator Cummins, on June 12, 1918, but on June 13, 1918, the Senate rejected the resolution, nays, 41 and yeas, 34.

1921—From March 4, 1921, to March 4, 1923, during the 67th Congress, five resolutions were introduced to limit debate in some form. These were referred to the Committee on Rules.

1922—On November 29, 1922, upon the occasion of the famous filibuster against the Dyer Anti-Lynching Bill, a point of order was raised by the Republican floor leader against the methods of delay employed by the obstructionist which, had the Chair sustained it, would have established a significant precedent in the Senate as it had in the House. The incident occurred as follows:

Immediately upon the convening of the Senate, the leader of the filibuster made a motion to adjourn. Mr. Curtis made the point of order that under Rule III no motion was in order until the Journal had been read. He also made the additional point of order that the motion to adjourn was dilatory. To sustain his point, Mr. Curtis said: "I know we have no

rule of the Senate with reference to dilatory motions. We are a legislative body, and we are here to do business and not to retard business. It is a well-stated principle that in any legislative body where the rules do not cover questions that may arise general parliamentary rules must apply.

"The same question was raised in the House of Representatives when they had no rule on the question of dilatory motions. It was submitted to the Speaker of the House, Mr. Reed. Mr. Speaker Reed held that, while there was no rule of the House upon the question, general parliamentary law applied, and he sustained the point of order."

The Vice President sustained Mr. Curtis' first point of order in regard to Rule III, but did not rule on the point that the motion was dilatory.

1922—The Senate Republicans voted 32 to 1 in party conference on May 25 for majority cloture on revenue and appropriation bills.

1925—On March 4, 1925, the Vice President, Charles G. Dawes, delivered his inaugural address to the Senate, in which he recommended that debate be further limited in the Senate.

On March 5, 1925, Senator Underwood introduced the following cloture resolution (S. Res. 3) embodying the Vice President's recommendation on further limitation of debate, which was referred to the Committee on Rules.

"Resolved, That the rules of the Senate be amended by adding thereto, in lieu of the rule adopted by the Senate for the limitation of debate on March 8, 1917, the following:

"1. There shall be a motion for the previous question which, being ordered by a majority of Senators voting, if a quorum be present, shall have the effect to cut off all debate and bring the Senate to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after previous question shall have been ordered on its passage, for the Presiding Officer to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

"2. All motions for the previous question shall, before being submitted to the Senate, be seconded by a majority by tellers if demanded.

"3. When a motion for the previous question has been seconded, it shall be in order, before final vote is taken thereon, for each Senator to debate the proposition to be voted for one hour."

Other resolutions introduced in the first session of the 69th Congress limiting debate were S. Res. 25; S. Res. 59; S. Res. 76; S. Res. 77; S. Res. 217; S. Res. 225 which were also referred to the Committee on Rules.

1925—Senator Robinson (Arkansas) said: "No change in the written rules of the Senate is necessary to prevent irrelevant

debate. Parliamentary procedure everywhere contemplates that a speaker shall limit his remarks to the subject under consideration. The difficulty grows out of the failure of the Presiding Officer of the Senate to enforce this rule."

1925—Senator Jones (Washington) proposed a threefold plan of reform: (1) extend the existing rule which forbids amendments not germane to appropriation bills to general legislation; (2) compel Senators to confine their remarks to the subject under consideration unless permitted by unanimous consent to do otherwise; (3) limit debate on measures other than revenue or appropriation bills after they have been under consideration ten days and a unanimous consent agreement for their disposal has been impossible to reach.

1925—Senators Fess and Jones introduced resolutions for a rule of relevancy.

1926—Senator Underwood (Alabama) offered a resolution to limit debate by majority vote on appropriation and revenue bills.

1933—Adoption of Twentieth Amendment (February 6, 1933), by doing away with short sessions, would eliminate filibusters, so Senator Norris believed. But subsequent events demonstrated that filibustering minorities are still able to delay urgent legislation. The final sessions of the 73d and 74th Congresses, the first two to function under the Amendment, ended in filibusters.

1935—The Chair ruled that a quorum call is the transaction of business and that Senators who yield for that purpose lose the floor. Under this ruling, a speaker yielding twice for quorum calls, if they are in order, while the same question is before the Senate is unable to regain the floor on that question during the same legislative day.

1939—The Reorganization Act of 1939 (Public Law 19, 76th Congress, 1st session) limited debate to ten hours, to be divided equally between those for and against, upon a resolution to disapprove a Presidential reorganization proposal.

1945—The Reorganization Act of 1945 (Public Law 263, 79th Congress, 1st session) contained the same "anti-filibuster rule" as the Reorganization Act of 1939. This rule read: "Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided betwen those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to." Subsequent extensions of the Reorganization Act have contained this proscription on debate.

1946—The Republican Steering Committee delegated Senator Saltonstall to prepare an amendment to rule XXII "so that the various dilatory methods of preventing its application can be eliminated." (May 21, 1946.)

1946—Senator Knowland proposed (S. Res. 312) a new standing rule prohibiting the receipt or consideration of any amendment to any bill or resolution which is not germane or rele-

vant to the subject matter thereof. Referred to Rules Committee (July 25, 1946).

1946—Senator Moses urged a thorough study of the Rules of the Senate "to the end of completely revising them." He also submitted a resolution (S. Res. 314) directing the Parliamentarian of the Senate to "prepare a complete and annotated digest" of its precedents (July 25, 1946). Referred to Rules Committee. (The precedents and practices of the Senate have been compiled by the Parliamentarians of the Senate and published. See *Senate Procedure* by Floyd M. Riddick, Senate Doc. 97-2, 97th Congress, 1st session, 1981.)

1947—Senators Saltonstall, Knowland, Morse, and Pepper introduced resolutions to amend Rule XXII so as to make cloture apply to any measure or motion or other matter pending before the Senate by a majority vote of those voting or by a majority vote of the entire membership of the Senate. The Rules Committee on April 3, 1947, reported a resolution (S. Res. 25) amending Rule XXII by making cloture apply to "any measure, motion, or other matter pending before the Senate or the unfinished business," but making no change in the current voting requirements of Rule XXII or in the limitation of debate after cloture is invoked.

1947—Senator Pepper (Florida) revived a suggestion that the Senate adopt a new rule making irrelevant debate out of order. He also proposed to limit debate on a motion to make any subject the unfinished business of the Senate, to make such a motion privileged, and have it decided by majority vote.

1947—Senator Holland (Florida) suggested that majority cloture be adopted only for the closing day or days of a session and that two-thirds cloture be required at other times.

1948—On July 28, Senator Tobey introduced S. Res. 270, "that during the present special session of the Congress, in the interests of efficiency and conservation of time, no Senator shall speak more than once, on any subject, and no more than 30 minutes thereon." No action was taken on this proposal.

1948—Mr. Vandenberg, President pro tem, in sustaining a point of order against a petition to close debate on motion to consider the antipoll tax bill, expressed his belief that:

"* * * in the final analysis, the Senate has not effective cloture rule at all * * * a small but determined minority can always prevent cloture, under the existing rules * * * a very few Senators have it in their power to prevent Senate action on anything * * * the existing Senate rules regarding cloture do not provide conclusive cloture. They still leave the Senate, rightly or wrongly, at the mercy of unlimited debate *ad infinitum*." (August 2, 1948.)

1948—The Republican Conference appointed a committee of ten Senators to consider and recommend revision of the existing cloture rule (August 1948). Members of this committee were: Brooks (Chairman), Wherry, Hickenlooper, Knowland, Lodge, Jenner, Bricker, Ives, Ferguson, Saltonstall.

1949—During the 81st Congress eight resolutions were introduced to amend the cloture rule: five in the first session and three in the second session. Hearings on the subject were held in early 1949 by the Committee on Rules and Administration and, under threat of a move to discharge the committee, it reported, without amendment, the Hayden-Wherry resolution (S. Res. 15; Senate Report 81-69). The purpose of this resolution was to plug a loophole in the existing cloture rule. It sought to apply the cloture rule "to motions or other matters pending" before the Senate rather than just to the "pending measure." Debate began on February 28, and continued at intervals until March 17, 1949. On March 10, a motion to apply cloture to the motion to take up was presented. Because cloture was assumed not to apply to motions to take up, Senator Russell made a point of order against the cloture motion. He was overruled by the Chair but on appeal the Senate refused to sustain the Chair. Subsequently, a compromise was worked out. Under this compromise the application of cloture to motions or other pending matters was incorporated into Rule XXII but at the same time it was required that two-thirds of the entire Senate vote for cloture in order to invoke it rather than two-thirds of those present and voting.

1950—During the second session of the 81st Congress three resolutions were introduced to liberalize the cloture rule adopted in 1949. They were S. Res. 283, by Mr. Saltonstall, on May 22, 1950; S. Res. 322, by Mr. Morse and Mr. Humphrey, on August 2, 1950; and S. Res. 336, by Mr. Lehman and nine others, on August 24, 1950. All these resolutions were referred to the Committee on Rules and Administration, which took no action upon them.

1950—On May 5, 1950, Senator Lucas moved to proceed to the consideration of the FEPC bill (S. 1728). On May 19 a motion to close debate on the motion to take up the FEPC bill was defeated by a vote of 52 yeas to 32 nays. Under the 1949 cloture rule it would have required the votes of 64 Senators—two-thirds of those duly elected and sworn—to close debate. This was the first test of the cloture rule as amended in 1949. Republicans voted 33 for cloture, 6 against. Democrats voted 19 for cloture, 26 against. Twelve Senators were absent of whom 9 were Democrats and 3 were Republicans. One of the absentees—Senator Withers (D., Ky.)—was formally announced as opposing application of cloture. (For discussion of the failure of the new cloture rule on its first try, see *Congressional Record*, May 19, 1950, pp. 7300-7307.)

1950—On July 12, 1950, a second attempt to invoke cloture on the motion to permit consideration of the FEPC bill (S. 1728) was defeated by a vote of 55 to 33, nine votes short of the required number. (For further discussion of the pros and cons of the 1949 cloture rule, see *Congressional Record*, July 12, 1950, pp. 9976-9985.)

1951-52—During the 82d Congress four resolutions to amend the Senate cloture rule were introduced:

S. Res. 41, by Mr. Morse and Mr. Humphrey, providing for simply majority cloture;

S. Res. 52, by Mr. Ives and Mr. Lodge, providing for constitutional majority (49) cloture;

S. Res. 105, by Mr. Lehman and ten others, providing for simple two-thirds cloture after a waiting period of 48 hours or, alternatively, for simple majority cloture after 15 days of debate; and

S. Res. 203, by Mr. Wherry, providing for cloture by two-thirds of those present and voting.

CLOTURE RULE AND RESOLUTIONS COMPARED

Resolution	Author	Voting requirement	Effectiveness in closing debate
Rule XXII		64 votes	3 out of 21 times.[1]
S. Res. 52	Ives-Lodge	49 votes	9 out of 21 times.[2]
S. Res. 203	Wherry	⅔ voting	4 out of 21 times.[2]
S. Res. 41 and 105	Morse-Lehman et al.	Majority voting	14 out of 21 times.[2]

[1] Since 1917.
[2] Potential effectiveness had this been the rule since 1917.

These resolutions were referred to the Committee on Rules and Administration which held hearings on them on October 2, 3, 9, and 23, 1951. On March 6, 1952, the Committee reported favorably on S. Res. 203, with an amendment lengthening the time limit between the filing of a cloture motion and the vote thereon from one to five intervening calendar days (Senate Report No. 1256, 82d Congress, 2d session). S. Res. 203, if adopted, would have restored the voting requirement for cloture which was in effect from 1917 to 1949, i.e., two-thirds of those Senators present and voting instead of two-thirds of those duly chosen and sworn. S. Res. 302 left subsection 3 of the existing Rule XXII unaltered, which meant that debate would remain unlimited on proposals to change any of the Standing Rules of the Senate.

Dissenting views were filed by Mr. Lodge who felt that S. Res. 203 "will make no practical difference insofar as the prevention of future filibusters concerned;" by Mr. Hendrickson who urged adoption of a simple majority cloture rule; and by Mr. Benton who favored S. Res. 105. No further action was taken on the subject during 1952.

1953–54—During the 83d Congress four resolutions to amend the Senate cloture rule were introduced:

S. Res. 20, by Mr. Jenner, providing for cloture by two-thirds of those present and voting;

S. Res. 31, by Mr. Ives, providing for cloture by a majority of the Senate's authorized membership; a 12-day interval (exclusive of Sundays and legal holidays) between the filing of a cloture petition and the vote thereon; and deleting subsection 3 of Rule XXII and all reference to it in subsection 2;

S. Res. 63, by Mr. Lehman and seven others, repealing subsection 3 of Rule XXII and providing two methods of cloture: by two-thirds of those voting after one intervening day fol-

lowing filing of the petition, or, if this failed, by a majority of those voting following an interval of 14 days; and

S. Res. 291, by Mr. Morse, providing for cloture by a majority of those voting, and repealing subsection 3 of Rule XXII.

These resolutions were referred to the Committee on Rules and Administration which, after consideration, favorably reported S. Res. 20 to the Senate with an amendment (S. Rept. 268). Individual views were filed by Mr. Green and Mr. Hennings. The resolution was placed on the Calendar, but no further action was taken. S. Res. 291 was ordered to lie on the table, July 22, 1954. Floor consideration of S. Res. 20 was objected to on four calendar calls during the second session of the 83d Congress.

The major event of the 83d Congress as regards efforts to limit debate in the Senate was the Anderson motion. At the opening of the 83d Congress advocates of majority rule in the Senate challenged the conception of the Senate as a continuing body. They based their strategy on the contention of Senator Walsh in 1917 that each new Congress brings with it a new Senate, entitled to consider and adopt its own rules. They proposed to move for consideration of new rules on the first day of the session and, upon the adoption of this motion, to propose that all the old rules be adopted with the exception of Rule XXII. Rule XXII was to be changed to allow a majority of all Senators (49) to limit debate after 14 days of discussion.

Accordingly, on January 3, 1953, Senator Anderson, on behalf of himself and 18 other Senators, moved that the Senate immediately consider the adoption of rules for the Senate of the 83d Congress. Senator Taft then moved that the Anderson motion be tabled. In the ensuing debate the Anderson motion was supported by Senators Douglas, Humphrey, Lehman, Ives, Hendrickson, Neely, Morse, and Murray.

Senator Douglas told the Senate that the Anderson proposal was the only method with any hope of success. The 1949 rule, he said, "ties our hands once the Senate is fully organized. * * * For under it any later proposal to alter the rules can be filibustered and never permitted to come to a vote. * * * Therefore, if it be permanently decided that the rules of the preceding Senate apply automatically as the new Senate organizes, we may as well say farewell to any chance either for civil rights legislation or needed changes in Senate procedures." (*Congressional Record*, January 7, 1953, p. 203.)

Opponents of the Anderson motion centered principally on the argument that the Senate is a "continuing body," bound by the rules of earlier Senates. They said that this thesis was proved because:

1. Only one-third of the Senate is elected every two years.

2. The Constitution did not provide for the adoption of new rules every two years.

3. If the Senate had had the power to adopt new rules, it had lost that power through disuse.

4. The Supreme Court, they said, had decided that the Senate was a "continuing body."

Debate against the rules change was led by Senator Taft who announced that the Republican Policy Committee had voted to oppose it in caucus; and by Senators Russell, Saltonstall, Stennis, Ferguson, Smith (N.J.), Butler (Md.), Maybank, and Knowland.

The Anderson motion was finally tabled by a vote of 21 to 70, taken on January 7, 1953. Taft was opposed by 15 Democrats, 5 Republicans and 1 Independent. He was supported by 41 Republicans and 29 Democrats. One additional Democrat was paired against the Taft motion; and one additional Republican was paired for it.

1955-56—During the 84th Congress only one resolution to amend the cloture rule was presented to the Senate. This was S. Res. 108, by Mr. Lehman, on June 14, 1955. On that day it was referred to the Committee on Rules and Administration; and on June 29 to the Subcommittee on Rules. No further action was taken on the Lehman resolution. S. Res. 108 provided (a) for cloture by a two-thirds vote of those voting "on the following calendar day but one" after the presentation of a petition to close debate; and (b) for cloture by a majority of those voting "on the fourteenth calendar day thereafter."

1957-58—At the opening of the 85th Congress, on January 3, 1957, Senator Anderson moved to consider the adoption of new rules. Senate Majority Leader Johnson immediately moved to table the Anderson motion. On January 4, the Anderson motion was tabled by a rollcall vote of 55 to 38. During the debate preceding this vote, Vice President Nixon said he believed the Senate could adopt new rules "under whatever procedures the majority of the Senate approves." He said that in his opinion the current Senate could not be bound by any previous rule "which denies the membership of the Senate the power to exercise its constitutional right to make its own rules." Nixon said he regarded as unconstitutional the section of Rule XXII banning any limitation of debate on proposals to change the rules, but added that the question of the constitutionality of the rule could be decided only by the Senate itself.

During the 85th Congress, 8 resolutions to amend the cloture rule were introduced:

S. Res. 17 by Mr. Douglas, repealing subsection 3 of Rule XXII and providing 2 methods of cloture: by two-thirds of those voting 2 days after 16 Senators had filed a petition, or, if this failed, by a majority of those voting 15 days after a petition had been signed by 16 Senators;

S. Res. 19 by Mr. Case, amending subsection 2 of Rule XXII to read that cloture may be invoked by "two-thirds of the Senators present and voting but in no case less than a majority of the Senators duly chosen and sworn;"

S. Res. 21 by Mr. Morse, providing for the imposition of cloture by majority vote;

S. Res. 28 by Mr. Ives, repealing subsection 3 of Rule XXII and providing for the imposition of cloture by majority vote;

S. Res. 29 by Mr. Humphrey, repealing subsection 3 of Rule XXII;

S. Res. 30 by Mr. Knowland, repealing subsection 3 of Rule XXII and providing for the imposition of cloture by two-thirds of the Senators present and voting;

S. Res. 32 by Mr. Bush, repealing subsection 3 of Rule XXII and providing for the imposition of cloture by two-thirds of the Senators present and voting;

S. Res. 171 by Mr. Jenner, providing for the imposition of cloture by two-thirds of the Senators present and voting.

These resolutions were referred to the Committee on Rules and Administration which, after consideration, favorably reported S. Res. 17 (S. Rept. 1509). This resolution was placed on the Calendar, but no further action was taken. Floor consideration of S. Res. 17 was objected to and passed over on four calendar calls during the second session of the 85th Congress.

1959-60—At the opening of the 86th Congress, Senate Majority Leader Johnson offered a resolution (S. Res. 5) to amend Senate Rule XXII which was adopted on January 12, after four days of debate, by a 72-22 rollcall vote. S. Res. 5 amended Rule XXII so as to enable two-thirds of the Senators present and voting to shut off debate on any matter, *including proposals for rules changes.* It also amended Senate Rule XXXII by adding this language: "The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

During the second session of the 86th Congress, on August 10, 1960, Senator Jacob Javits introduced S. Res. 358 which provided for the imposition of cloture by a majority vote of all Senators chosen and sworn. The resolution died in the Committee on Rules and Administration.

1961-62—At the opening of the 86th Congress two resolutions to amend Rule XXII were introduced in the Senate: S. Res. 4, by Senator Clinton P. Anderson, to allow curtailment of debate by three-fifths (instead of two-thirds) of those present and voting; and S. Res. 5, by Senators Humphrey and Kuchel, providing for majority cloture. At the outset of the debate on these resolutions, Vice President Nixon reaffirmed his 1957 "advisory opinion" that the constitutional right of a majority of the Senate to adopt new rules at the beginning of a new Congress could not be inhibited by the two-thirds requirement of Rule XXII regarding cloture. After seven days of debate on a Mansfield motion to consider S. Res. 4, Senators Mansfield and Dirksen moved to refer the matter to the Committee on Rules and Administration. Their motion was adopted on January 11, 1961, by a rollcall vote of 50-46. Eight other resolutions to change Senate Rules were also referred by voice vote to the Committee, including proposals for a rule of germaneness and the previous question. On September 5, 1961, the Committee reported S. Res. 4 without recommendation and on September 16, Mansfield's moved to take it up. On September 19, after two days of debate, the Senate refused to impose cloture on debate of Mansfield's

motion by a 37-43 rollcall vote. Then Mansfield moved to table the original motion and this carried, 46-35.

1963-64—Clinton Anderson on January 14 introduced a resolution (S. Res. 9) to lower from two-thirds to three-fifths of the Senators present and voting the majority needed to invoke cloture. Then Hubert Humphrey, speaking for a bi-partisan group of 14 liberals, introduced S. Res. 10 which would have permitted cloture by a constitutional majority (51) 15 days after a petition had been filed by 16 Senators if cloture under the present rule had failed.

During the debate on the motion to consider the Anderson proposal, January 30, Senators Javits and Keating called on Vice President Johnson in the chair, to "put the question" to the Senate in order to cut off debate and permit a resolution of the constitutional issue. Johnson denied that the Senate's presiding officer had such power. He further stated that it was a matter of constitutional interpretation, and that since 1803, such matters invariably had been decided by the Senate itself.

On February 15, Mansfield filed a cloture petition. He stated that unless the cloture motion received the support of at least 60 Senators, he would favor laying aside S. Res. 9. On February 7, the Senate refused by a 54-42 rollcall vote to invoke cloture on the pending motion to take up the resolution. While short of the mark, the 54-42 vote for cloture was the first instance in a decade when those proposing a change in Rule XXII mustered a majority in their favor.

Senator Allott introduced the only other resolution during the 88th Congress relating to amending Rule XXII. S. Res. 11 provided for the imposition of cloture by a three-fifths vote of the Senators duly chosen and sworn. The resolution was referred to the Committee on Rules and Administration where it died.

1965-66—During the 89th Congress, 5 resolutions were introduced with provisions to amend Rule XXII. On January 6, 1965, Clinton Anderson introduced a resolution (S. Res. 6) permitting a three-fifths majority of the Senators present and voting, in place of the existing requirement of two-thirds, to shut off debate. Paul Douglas introduced a substitute proposal (S. Res. 8) requiring only a majority vote of the entire Senate membership to cut off debate. The two resolutions were referred to the Committee on Rules and Administration on January 8, under a unanimous consent agreement which required the Committee to report by March 9. On March 3, the Committee reported adversely on both proposals by a 5-4 vote. No effort was made to call up the two resolutions during the rest of the session. Three other resolutions were introduced which were referred to the Rules and Administration Committee and died there:

S. Res. 16 by Mr. Morse, repealing subsection 3 of Rule XXII and providing for the imposition of cloture by majority vote;

S. Res. 82 by Mr. Miller, providing for the imposition of cloture by a three-fifths vote of the Senators present and voting;

S. Res. 114 by Mr. Bennett, providing that each Senator who calls up an amendment after cloture shall, in addition to the one hour of speaking time provided to him by Rule XXII, be allowed up to an additional 5 minutes to explain his amendment.

1967-68—Two proposals to change Rule XXII were introduced in the 90th Congress on January 11, 1967;

S. Res. 6 by Mr. McGovern and Mr. Morton providing for three-fifths of the Senators present and voting to end debate;

S. Res. 7 by Mr. Kuchel and 15 other Senators permitting 16 Senators to file a cloture motion after a proposal had been debated for 20 days. The question of terminating debate would be put to the Senate for a vote one hour after the session of the 20th day began and a majority vote of the Senators would end debate.

On January 18, Senator McGovern proposed that the Senate immediately vote to end debate on the motion to consider his resolution and if a majority vote occurred, the Senate would then debate the resolution itself. Mr. McGovern justified this procedure by arguing that the Senate under the Constitution could at the beginning of a new session adopt new rules by majority vote. Senator Dirksen raised a point of order against the McGovern motion claiming that it was, in effect, an effort to circumvent Rule XXII.

Supporters of McGovern had hoped for a favorable ruling from Vice President Humphrey, but Humphrey stated:

"* * * the precedent, which is a part of Senate history—namely, that the Chair has submitted constitutional questions to the Senate for its decision—the Presiding Officer believes to be a sound procedure. It has not been considered the proper role of the Chair to interpret the Constitution for the Senate. Each Senator has his own obligation when he takes his oath of office to support and defend the Constitution. The Presiding Officer is aware of no sufficient justication for reversing this procedure."

Humphrey then asked the Senate if the point of order should be sustained. He also said this question was debatable but subject to a tabling motion, which is not debatable; whereupon McGovern moved to table the Dirksen point of order. According to the Vice President, acceptance of the tabling motion would have validated the constitutionality of the McGovern motion, which in turn would have validated the right of the Senate to adopt new rules by majority vote at the beginning of a new session. However, the Senate rejected McGovern's motion by a 37-61 rollcall vote. Dirksen's point of order was then sustained by a 59-37 rollcall vote. Hence the Senate found McGovern's motion unconstitutional.

An attempt was then made to invoke cloture but it failed on January 24 by a 53-46 rollcall vote—a majority, but thirteen votes shy of the required two-thirds present and voting.

1969-70—At the beginning of the 91st Congress yet another strategy was devised by those who favored alteration in Rule XXII, but felt themselves blocked by that very cloture rule from effecting a change. Proponents of change marshaled their support behind a single resolution. S. Res. 11, introduced by Senators Church and Pearson and cosponsored by 35 other Senators. It provided for the invoking of cloture by three-fifths, rather than two-thirds, of those present and voting.

Their strategy required a favorable ruling by the Vice President, still Mr. Humphrey, that a simple majority could invoke cloture on any motion to take up, or on the resolution itself, when a change in the rules was being attempted at the start of a new Congress. On January 14, 1969, five days after debate had begun on S. Res. 11, Mr. Church and 24 other Senators filed a cloture motion to limit debate on the motion to consider the resolution. This cloture motion was filed under the procedures set forth in Rule XXII.

Mr. Church then inquired of the Chair whether, if a majority of the Senators present and voting, but less than the two-thirds required by Rule XXII, voted in favor of cloture, the cloture motion would have been agreed to. Church justified his request for a favorable ruling with the argument that it was unconstitutional to require a two-thirds vote to invoke cloture on such questions in that it restricted the right of a majority of the Senate to determine its rules at the opening of a new Congress, a right, by Church's reasoning, implied in the Constitution.

The Vice President agreed with Mr. Church, saying: "On a par with the right of the Senate to determine its rules, though perhaps not set forth so specifically in the Constitution, is the right of the Senate, a simple majority of the Senate, to decide constitutional questions."

"If a majority—this is the view of the Chair—but less than two-thirds, of those present and voting, vote in favor of this cloture motion, the question whether the motion has been agreed to is a constitutional question. The constitutional question is the validity of the Rule 22 requirement for an affirmative vote by two-thirds of the Senate before a majority of the Senate may exercise its right to consider a proposed change in the rules. If the Chair were to announce that the motion for cloture had not been agreed to because the affirmative vote had fallen short of the two-thirds required, the Chair would not only be violating one established principle by deciding the constitutional question himself, he would be violating the other established principle by inhibiting, if not effectively preventing, the Senate from exercising its right to decide the constitutional question. * * *"

"The Chair informs the Senate that in order to give substance to the right of the Senate to determine or change its rules to determine whether the two-thirds requirement of Rule 22 is an unconstitutional inhibition on that right at the opening of a new Congress, if a majority of the Senators present and voting but fewer than two-thirds vote in favor of the pending motion for cloture, the Chair will announce that

a majority having agreed to limit debate on Senate Resolution 11, to amend Rule 22, at the opening of a new Congress, debate will proceed under the cloture provisions of that rule."

This landmark ruling, subject, as the Chair said, to appeal without debate, caused considerable agony for those who opposed it and the altering of Rule XXII. Senator Holland averred that it would "deprive the Senate of any chance to discuss the constitutional aspects of this very serious matter."

On January 16, the Senate voted 51–47 to invoke cloture and the Vice President, in line with his earlier statement, ruled that cloture had been invoked. This decision was appealed and reversed on a 45–53 rollcall vote. Subsequently, on January 28, a second attempt to invoke cloture, this time within the two-thirds stricture of Rule XXII, was attempted and failed, 50–42; thus ended another ploy for changing Rule XXII.

1971—At the start of the 92d Congress, the longest battle in many years over altering the cloture rule, Rule XXII, took place. On January 25, Senators Frank Church and James Pearson introduced Senate Resolution 9. That resolution, co-sponsored by forty-nine other Senators, would have reduced the number of Senators required to curtail debate from two-thirds to three-fifths of those present and voting.

As in 1969, proponents of reform hoped for a favorable ruling from the Chair on whether a simple majority at the start of a Congress could invoke cloture on a resolution to alter Senate rules or on a motion to take up such a resolution. However, Vice President Spiro Agnew stated that he would refrain from making any such ruling and, instead, referred all such questions to the full Senate for resolution. Thus, proponents of Senate Resolution 9 were required to carry on their efforts under the two-thirds requirement they were seeking to change.

On the day Senators Church and Pearson introduced S. Res. 9, opponents began a filibuster on the motion to consider the resolution. Senator James Allen of Alabama coordinated the efforts of a coalition, consisting largely of Southern Democrats and Republicans, that prolonged debate on the motion to consider S. Res. 9. The first attempt to invoke cloture came on February 18. Proponents of S. Res. 9 could muster only 48 votes in favor of ending debate compared with 37 Senators who opposed curtailing discussion, far short of the two-thirds majority required. A second attempt to invoke cloture failed on February 23 by a vote of 50–36.

During the six-week debate on the motion to consider the resolution, several Senators suggested a number of compromise solutions to bridge the gap between those favoring a modification of Rule XXII and the opponents of a three-fifth cloture rule. Senator Allen J. Ellender proposed a three-fifths vote to end debate on all conference reports and appropriations bills. Majority Whip Robert C. Byrd suggested that debate be ended by three-fifths of the membership of the

Senate. Senator Robert Dole offered a resolution to reduce gradually the number of Senators required to invoke cloture. Beginning with the two-thirds requirement, each successive attempt to invoke cloture on the same measure would require one less vote than the previous attempt until the three-fifths level was reached on the eighth vote. Senator Jack Miller proposed a three-fifth requirement for cloture with the added stipulation that the majority included a simple majority of each major party in Congress.

Senator Miller's resolution received serious consideration from Senators Church and Pearson after the third attempt to end debate failed on March 2 by a vote of 48–36. A fourth and final attempt to end debate failed on March 9 by a vote of 55–39, eight votes short of the required two-thirds majority. After this vote, Senator Javits appealed the decision of Presiding Officer Allen J. Ellender, who had announced that the cloture attempt had failed to receive the necessary two-thirds majority. By appealing the decision of the Chair, Javits again raised the question of whether the Senate could alter its rules at the beginning of a new session by a simple majority. Majority Leader Mike Mansfield moved to table Javits' motion; the motion to table carried 55–37.

1975—The first session of the 94th Congress produced a protracted, and ultimately successful, attempt to modify Senate Rule XXII. Under the sponsorship of Senators Walter Mondale of Minnesota, James Pearson of Kansas, and others, an attempt was made to change the cloture rule so that three-fifths of the Senators present and voting could bring debate to a close. This proposal, S. Res. 4, was introduced by Senator Pearson on January 17, 1975, and placed on the Senate calendar.

As in the past, proponents of the measure hoped for a favorable ruling from the Chair on whether a simple majority, at the start of Congress, could close debate on a resolution to change Senate rules, or on a motion to take up such a resolution. On February 20, 1975, Senator Pearson, as part of a lengthy motion, moved the consideration of S. Res. 4. "I move that the Senate proceed to the consideration of Calendar item No. 1, Senate Resolution 4, amending Rule XXII of the Standing Rules of the Senate with respect to limitation of debate; and that under Article I, section 5, of the U.S. Constitution, I move that debate upon the pending motion to proceed to the consideration of Senate Resolution 4 be brought to a close by the Chair immediately putting this motion to end debate to the Senate for a yea-and-nay vote; and, upon the adoption thereof by a majority of those Senators present and voting, a quorum being present, the Chair shall immediately thereafter put to the Senate, without further debate, the question on the adoption of the pending motion . . ." [Congressional Record, 3835].

Senator Mike Mansfied of Montana entered a point of order against the motion in that it violated the rules of the Senate by prescribing an end to debate by a majority vote. Senator Mansfield observed, "the present motion to invoke

cloture by a simple majority vote, if it succeeds, would alter the concept of the Senate so drastically that I cannot under any circumstances find any justification for it." (p. S2336).

Vice President Rockefeller declined to rule either on the validity of the Pearson motion or on the Mansfield point of order, and, instead, submitted to the Senate the question of whether the Mansfield point of order was well taken. The Senate temporarily endorsed the doctrine that majority cloture may be invoked to change Senate rules at the start of a Congress when it agreed to a motion by Senator Mondale to table the Mansfield point of order by a vote of 51-42.

At this point in the proceedings, Senator James Allen of Alabama moved that the motion be divided in as much as it contained several clauses. The Vice President rules that the motion could be divided and that, once divided, the various parts of the motion became debatable although, when considered as a whole, the motion was not subject to debate. With this ruling, coupled with the Vice President's subsequent recognition of Senator Allen, the Pearson motion became subject to a long series of amendments and intervening motions. Although the principle of majority cloture had been endorsed, the parliamentary tangle which followed division of the motion prevented a majority cloture vote from being taken on the original Perason resolution.

In the course of debate on February 26, 1975, Senator Russell Long of Louisiana indicated his willingness to compromise on a constitutional three-fifths cloture rule. This proposal was embodied in S. Res. 93, introduced by Senator Robert Byrd of West Virginia on February 28, 1975. The Byrd resolution provided for closing debate in the Senate upon the vote of "three-fifths of the Senators present and sworn." The Byrd proposal required a two-thirds vote of "Senators present and voting" to close debate on a measure or motion to change the rules of the Senate. Senator Byrd requested immediate consideration of his resolution, but objection was heard and the resolution went over under the rule.

On March 3, 1975, the Senate, by a vote of 53-38, agreed to reconsider the vote of February 20, through which the Mansfield point of order against the Pearson motion was tabled. A motion to table the Mansfield point of order was rejected 40-51. The following day, the Senate voted 53-43 to sustain the Mansfield point of order. Thus, the Senate erased the precedent of majority cloture established two weeks before, and reaffirmed the "continuous" nature of the Senate rules.

On March 3, 1975, Senator Byrd entered a motion to close debate on the motion to proceed to consider Senate Resolution 4. On March 5, 1975, the Senate invoked cloture on the motion to proceed to consider Senate Resolution 4. The vote was 73-21, with two-thirds of the Senators present and voting having voted in the affirmative. Later the same day, the Senate voted 69-26 to proceed to consider Senate Resolution 4, and adopted Senate Resolution 93 as an amendment in the nature of a substitute. At the close of the session, Sen-

ator Byrd introduced a motion to close debate on Senate Resolution 4, as amended; cloture was voted on March 7, 1975 by a vote of 73-21, with two-thirds of the Senators present and voting recorded in the affirmative. Senate Resolution 4, as amended to provide for a constitutional three-fifths cloture vote for all measures save those amending the rules of the Senate, passed the Senate on March 7, 1975, by a vote of 56-27.

1976—During the Second Session of the 94th Congress, the Senate further refined the procedure under which it operated after cloture had been invoked. Previously, amendments had to be presented and read prior to the cloture vote in order to be considered after cloture was invoked. This requirement could be waived by unanimous consent. In approving S. Res. 268 on April 6, 1976, the Senate agreed to permit amendments to be considered after invoking cloture if the amendments were submitted in writing to the Journal Clerk prior to the end of the cloture vote. This modification was proposed when several amendments submitted prior to a cloture vote had inadvertently not been read before the vote was taken.

1977—Subsequent to the 1975 revisions, opponents of measures increasingly relied upon "post-cloture" filibusters in an attempt to delay Senate action. By calling up amendments offered before cloture was invoked, by demanding frequent roll call votes and repeated quorum calls, and by calling for the reading of amendments, conference reports, and the Journal, filibusterers could continue to prevent Senate action.

In 1977, Senator Robert C. Byrd introduced a resolution (S. Res. 5) designed to restrict the use of such "post-cloture" filibusters. As reported from the Committee on Rules and Administration, the resolution provided that a cloture petition could not be offered until 24 hours after the Senate had begun consideration of a measure, limited to 50 hours the amount of time available for debate after cloture was invoked, provided that time for quorum calls and votes be charged against the fifty hours, permitted the post-cloture debate time to be extended or reduced upon the two-thirds vote of the Senate, and included provisions limiting dilatory tactics. The reading of amendments and conference reports in full could not be demanded if they were available in printed form to all Senators; and the Presiding Officer was given greater discretion in ruling quorum calls dilatory and out of order.

In support of his resolution, Majority Leader Byrd declared on May 9 that S. Res. 5 "constitutes a logical, feasible, reasonable approach in removing the roadblock (of post-cloture filibusters) and it would be so without trampling upon the legitimate rights of the minority in the Senate." Minority Leader Howard Baker opposed the resolution. "I understand the need to tighten up on delay after cloture, but I think the Committee on Rules has gone too far as the majority has gone too far." Because time for votes and quorum calls would be counted against the fifty hours of debate time,

it was possible, Baker noted, that not every Senator would have the opportunity to speak on a bill.

In an effort to meet the objections to S. Res. 5, the joint party leadership, and Senator James Allen, a supporter of S. Res. 5, attempted to devise a compromise version of the resolution. As reported to the Senate, the revised version provided that after the fifty hours of post cloture debate, Senators who had not then used their half-hour of debate time, and who wished to do so, would be entitled to recognition. The revised resolution also permitted any amendment submitted prior to the cloture vote to be called up for action without further debate. A motion to dispense with the reading of the Journal would be voted on without debate, and motions to correct the Journal would be subject to a twenty-minute debate limitation. Motions to dispense with the reading of amendments and conference reports would be decided without debate when such documents were available in printed form. Post cloture debate could be reduced under the same procedures as in the original resolution, but the time could not be reduced to fewer than ten hours. Similarly, no cloture petition could be filed until a measure had been pending before the Senate for twenty-four hours.

The revised version failed to meet all minority party objections, and caused new concerns among some majority party Senators. On May 12, the measure was put aside, and the Senate proceeded to consider other business. No further attempts were made in the 95th Congress to consider S. Res. 5.

1977—In October 1977, a series of rulings by the Vice President, sustained by the Senate, established precedents for reducing the impact of post-cloture filibusters. Senator Robert C. Byrd offered a point of order against an amendment to the natural gas pricing bill in that the amendment was directed to the bill, and not to the substitute upon which cloture had already been invoked. The amendment, Byrd claimed, was dilatory in that it was not directed at the subject under consideration. Moreover, Sen. Byrd made the point of order that "when the Senate is operating under cloture, the Chair is required to take the initiative . . . to rule out of order all amendments which are dilatory or which on their face are out of order." Vice President Mondale sustained the point of order, and the Senate tabled an appeal from the ruling of the Chair by a vote of 79–14. The Senate also sustained, by a vote of 59–34, a point of order that a Senator has the right to recall his own amendments, qualified and pending under cloture, prior to being called up. By a vote of 74–21, the Senate also sustained a point of order that actions ruled dilatory do not constitute the transition of business for the purposes of demanding a subsequent quorum call.

1979—On the first day of the 96th Congress, Majority Leader Robert C. Byrd submitted S. Res. 9, proposing several procedural changes designed to expedite Senate business. It provided for nondebatable motions to approve and to correct the Journal, to waive the reading of printed amendments and conference reports, and (by a three-fifths vote) to prohibit

nongermane amendments to a measure. It also proposed that cloture motions submitted after September 1 in any year be voted on 3 hours after submission, that the time required between filing a report on a measure and considering the measure be reduced from three to two days, and that electronic voting be installed. To restrain the "post-cloture filibuster," it proposed to limit post-cloture consideration to 100 hours of actual consideration, and to permit three-fifths of the Senate (60 Senators), on nondebatable motions in order once on each calendar day, to provide additional time under the control of the floor leaders or to reduce the time, but not to less than 10 hours.

On February 7, the Senate agreed to consider S. Res. 61, embodying only the last two of these provisions, dealing with procedure after cloture is invoked. The agreement also provided that only amendments dealing with post-cloture procedure be in order, and that S. Res 9 recur as the pending business if action on S. Res. 61 were not completed by February 22. During debate on S. Res. 61, the Senate remained in its first legislative day, preserving the possibility that Senators might again raise the issue of closing debate on rules changes by majority vote.

Debate on the resolution centered on ensuring that opportunities to participate in consideration of a measure under cloture would be equitably distributed to all Senators. On February 8, the Senate agreed to amendments, offered by Senator Robert C. Byrd, providing that if a measure was reprinted after cloture was invoked, amendments could be conformed in their lineation and pagination so as to remain in order to the measure; that no Senator be recognized to offer more than two amendments under cloture until each Senator had had the chance to call up two; and that any Senator who had not spoken during debate under cloture could be recognized for ten minutes to speak even if the allotted time had expired. Another such amendment permitted the managers and floor leaders to be yielded up to two hours each from other Senators' allotted hours, and to yield such time in turn to others.

During the debate, a proposal developed by a group of Senators was considered that would have permitted Senators to reduce the total debate time by yielding their hours back, or to yield time to any other Senator, but these arrangements, like the provisions for reducing the debate time by a three-fifths vote, were ultimately excluded from the plan as giving proponents of a matter under cloture too much opportunity to reduce the time available to others. However, on February 21, amendments by Senator Ted Stevens were agreed to, embodying other elements of the proposal developed by the same group of Senators. These amendments provided that, under cloture, the reading and approval of the Journal be dispensed with, and the reading of printed amendments be waived. Other elements of this plan were rejected during the debate, including a proposal to limit consideration of a measure under cloture to eight hours per day. Another element

not agreed to would have allowed new amendments in the second degree to be proposed after cloture was invoked; it was opposed on grounds that Senators should be able to know the nature of the propositions that would be discussed under cloture before invoking it. Instead, an amendment was agreed to on February 22 permitting first degree amendments to be called up under cloture if they were filed by the day after a cloture motion is filed, and second degree amendments if filed by one hour before the vote to invoke cloture begins.

On the central issue of the controlling the "post-cloture filibuster," several proposals were considered to substitute for the overall 100-hour cap a system of charging all roll calls against the hour of the Senators requesting them, but none was agreed to. Objections were, on the one hand, that such a system would give less opportunity to individual opponents of a measure under cloture than would the cap and, on the other hand, that only the cap could contain a post-cloture filibuster. A proposal by Senator Jacob Javits was also rejected, which would have allowed a Senator whose amendments were ruled out of order under cloture one appeal, en bloc, of such rulings as he chose. Senator Byrd also suggested, but did not offer, an amendment to limit to three hours the time for debate, under cloture, on motions to proceed to consider a measure.

With these amendments, S. Res. 61 was then adopted, 78–16, and the Senator adjourned briefly, ending its first legislative day of the session.

OUTSTANDING SENATE FILIBUSTERS FROM 1841 TO 1984

1841—A bill to remove the Senate printers was filibustered against for ten days.

1841—A bill relating to the Bank of the United States was filibustered for fourteen days and caused Clay to introduce his cloture resolution.

1846—The Oregon Bill was filibustered for two months.

1863—A bill to suspend the writ of habeas corpus was filibustered.

1865—Reconstruction of Louisiana bill was filibustered for five days.

1876—An army appropriation bill was filibustered against for twelve days, forcing the abandonment of a rider which would have suspended existing election laws.

1879—A four-day filibuster halted repeal of election laws.

1881—A measure to reorganize the Senate was filibustered from March 24th to May 16th, 26 session days, by an evenly divided Senate, until two Senators resigned, giving the Democrats a majority.

1890—The Blair Education Bill was filibustered for 26 days.

1890—The "Force Bill," providing for federal supervision of elections, was successfully filibustered for twenty-nine days. This resulted in the cloture resolution introduced by Senator Aldrich which was also filibustered and the resolution failed. Total filibuster time: 33 calendar days.

1893—An unsuccessful filibuster lasting forty-six days was organized against a bill for the repeal of the Silver Purchase Act.

1901—Senator Carter successfully filibustered a River and Harbor bill because it failed to include certain additional appropriations; one day.

1903—There was a successful filibuster against Tri-State Bill proposing to admit Oklahoma, Arizona and New Mexico to statehood, because the measure did not include all of Indian Territory according to the original boundaries.

1903—Senator Tillman (South Carolina) filibustered against a deficiency appropriation bill because it failed to include an item paying his state a war claim. The item was finally replaced in the bill.

1903—River and Harbor bill filibustered one day.

1907—Senator Stone filibustered two days against a ship subsidy bill.

1908—Senator La Follette led a filibuster lasting twenty-eight days against the Vreeland-Aldrich Emergency Currency Law. The filibuster finally failed.

1911—Senator Owen filibustered a bill proposing to admit New Mexico and Arizona to statehood. The House had accepted New Mexico, but refused Arizona because of her proposed constitution. Senator Owen filibustered against the adminis-

sion of New Mexico until Arizona was replaced in the measure. Two days.

1911—The Canadian Reciprocity Bill passed the House and failed through a filibuster in the Senate. It passed Congress in an extraordinary session but Canada refused to accept the proposition.

1913—A filibuster was made against the Omnibus Public Buildings Bill by Senator Stone of Missouri until certain appropriations for his state were included.

1914—Senator Burton (Ohio) filibustered against River and Harbor bill for twelve hours. Total filibuster time on this bill was 11 days.

1914—Senator Gronna filibustered against acceptance of a conference report on an Indian Appropriation Bill.

1914—In this year also the following bills were debated at great length, but finally passed: Panama Canal tolls bill, thirty days; Federal Trade Commission Bill, thirty days; Clayton Amendments to the Sherman Act, twenty-one days; Conference report on the Clayton Bill, nine days.

1915—A filibuster was organized against President Wilson's Ship Purchase bill by which German ships in American ports would have been purchased. The filibuster, which lasted 33 days, was successful and as a result three important appropriation bills failed.

1917—The Armed Ship bill of President Wilson was successfully filibustered for 23 days, and caused the defeat of many administration measures. This caused the adoption of the Martin resolution embodying the President's recommendation for a change in the Senate rules on limitation of debate.

1919—A filibuster was successful against an Oil and Mineral Leasing Bill, causing the failure of several important appropriation bills and necessitating an extraordinary session of Congress.

1921—The Emergency Tariff bill was filibustered against in January, 1921, which led Senator Penrose to present a cloture petition. The cloture petition failed, but the tariff bill finally passed.

1922—The Dyer Anti-Lynching Bill was successfully filibustered for 4 days by a group of Southern Senators.

1923—President Harding's Ship Subsidy Bill was defeated by a filibuster lasting 2½ months.

1925—Senator Copeland (New York) talked at length against ratification of the Isle of Pines Treaty with Cuba, but the treaty was finally ratified.

1926—A ten-day filibuster against the World Court Protocol was ended by a cloture vote of 68 to 26, the second time cloture was adopted by the Senate; the first being on the Versailles Treaty debate in 1919.

1926—A bill for migratory bird refuges was filibustered by states' rights advocates in the spring of 1926, a motion for cloture failing by a vote of 46 to 33.

1927—Cloture again failed of adoption in 1927, when it was rejected by 32 yeas against 59 nays, on the Swing-Johnson Bill for development of the Lower Colorado River Basin. (5 days.)

1927—One of the fiercest of all filibusters succeeded in March 1927 in preventing an extension of the life of a special campaign investigating committee headed by James A. Reed of Missouri. The committee's expose of corruption in the 1926 senatorial election victories of Frank L. Smith in Illinois and of William S. Vare in Pennsylvania had aroused the ire of a few Senators who refused to permit the continuance of the investigation despite the wishes of a clear majority of the Senate.

1933—Early in 1933 a two-week filibuster was staged against the Glass Branch Banking Bill, marking the first time Huey Long participated as a leading figure. "Senators found him impervious to sarcasm and no man could silence him." Cloture was defeated by the margin of a single vote. Finally, the filibuster was abandoned and the bill passed.

1935—The most celebrated of the Long filibusters was staged on June 12-13. Senator Long spoke for fifteen and one-half hours, a feat of physical endurance never before excelled in the Senate, in favor of the Gore amendment to the proposed extenion of the National Industrial Recovery Act. The amendment was finally tabled.

1935—An Anti-Lynching Bill was filibustered for six days.

1938—A 29-day "feather duster" filibuster in January-February, 1938, defeated passage of a Federal anti-lynching bill, although an overwheliming majority of the Senate clearly favored the bill.

1939—An extended filibuster against adoption of a monetary bill, extending presidential authority to alter the value of the dollar, continued from June 20 to July 5, 1939, 16 days, but finally failed by a narrow margin.

1942, 1944, 1946, 1948—Four organized filibusters upon the perennial question of Federal anti-poll-tax legislation were successful in these years. An attempt to pass fair employment practice legislation in 1946 was also killed by a filibuster. The Senate cloture rule proved ineffective in these cases as a device for breaking filibusters.

1949—A motion to take up a resolution (S. Res. 15) to amend the cloture rule was debated at intervals in the Senate from February 28 to March 17, when it was amended and agreed to.

1950—A motion to take up the FEPC bill (S. 1728) was debated in the Senate, May 8-19, 1950, a total of 9 days. Ten Senators spoke in favor of the motion to take up (really in support of the bill) and 8 (Senators spoke against the motion. According to a rough calculation, the proponents of the motion and bill used 35 percent, and the opponents used 65 percent, of the space in the *Congressional Record* devoted to the subject. During the 9-day period 3,414 inches of the *Record* were consumed with discussion of FEPC and 2,835 inches with other matters.

1950—Mr. Malone filibustered for 11 hours against the conference report on the slot machine bill (S. 3357) in December 1950.

1953—A prolonged debate took place on the so-called "tidelands" offshore oil bill. It began April 1 and ended May 5. The tidelands debate lasted for 35 days, one of the longest on record. During this debate Senator Morse established a new record

for the longest single speech. On April 24-25 he spoke for 22 hours and 26 minutes.

1954—An extended debate occurred in July 1954, on a bill to amend the Atomic Energy Act of 1946 (S. 3690). The debate lasted 13 days. On July 26 Senator Knowland sought to invoke cloture on S. 3690, but his motion failed by a vote of 44 yeas to 42 nays.

1957—On August 28-29, during the debate on the Civil Rights bill of 1957, Senator Strom Thurmond made a 24-hour and 18-minute speech, *the longest in Senate history.*

1960—The Senate debated civil rights from February 15 to April 8. Actual debate on civil rights consumed 37 days, during which 45 rollcall votes were taken. Eighteen Southern Senators conducted a systematic filibuster. In an effort to break the filibuster, around-the-clock sessions were held from February 29 through March 9. The Senate was in continuous session for 9 days, or a total of 157 hours and 26 minutes, with two breaks.

1961—At the opening of the 87th Congress on January 3, Senate liberals sought to redeem the pledges of both party platforms to revise congressional procedures so that (in the language of the Democrats) "majority rule prevails and decisions can be made after reasonable debate without being blocked by a minority in either house." After a week's debate, much of it on the "advisory opinion" of Vice President Nixon that a majority of the Senate has a constitutional right to adopt new rules at the beginning of a new Congress by moving the previous question, two resolutions to amend the cloture rule (S. Res. 4, sponsored by Senator Anderson, for three-fifths cloture, and S. Res. 5, sponsored by Senators Humphrey and Kuchel, for majority cloture) were referred to the Committee on Rules and Administration on January 11 by a 50-46 rollcall vote on motion of Senator Mansfield, the new Majority Leader.

1962—In May a Southern filibuster against an Administration bill (S. 2750) to make anyone with a sixth grade education eligible to pass a literacy test for voting in federal elections ran for ten days. Two cloture motions, filed by Senators Mansfield and Dirksen, failed to receive the necessary two-thirds vote. The votes against cloture were 43-53 on May 9 and 42-52 on May 14.

1962—An intermittent two-month filibuster was conducted (June 14 to August 14) by a group of ten "economic liberals" against the Administration's communications satellite bill (H.R. 11040). Finally, on August 14, a Mansfield-Dirksen motion to invoke cloture was adopted by a rollcall vote of 63 to 27. Republicans voted 34 to 2 for cloture; Democrats 29 to 25. The 63 votes in favor were three more than the two-thirds necessary to invoke cloture. This was the first time since 1927, and only the fifth time in Senate history, that the Senate voted to close debate on a bill.

1963—Clinton Anderson on January 14 introduced a resolution, S. Res. 9, to lower from two-thirds to three-fifths of the Senators present and voting the majority needed to invoke clo-

ture. On February 15, Mansfield filed a cloture petition. He stated that unless the cloture motion received the support of at least 60 Senators, he would favor laying aside S. Res. 9. On February 7, the Senate refused by a 54-42 rollcall vote to invoke cloture on the pending motion to take up the resolution.

1964—Debate began March 9, 1964, on a motion by Majority Leader Mansfield to take up a House-passed civil rights bill (H.R. 7152). On March 16, after 16 days of debate the Senate by a 67-17 cloture rollcall agreed to take up the bill. Debate on the bill began March 30. By the tenth week of debate almost no significant floor action had been taken because Southern opponents were preventing final disposition of the bill and its amendments. During the 19th week of debate a compromise was worked out by the Democratic leadership, Senator Dirksen, the Minority Leader, and the Justice Department. The major changes in the bill were in the enforcement of Titles II and VII covering accommodations and fair employment practices. In both cases the Government was allowed to intervene only where there was a "pattern" of discrimination. On June 1, Mansfield announced he would file a petition for cloture on June 8. The Senate on June 10 for the *first time* in its history voted to shut off *debate* on a civil rights bill (71-29). This vote ended a 57-day filibuster on the bill itself. Including debate on the motion to take up, 74 calendar days were consumed by the filibuster on the 1964 Civil Rights Act.

1964—On August 13, 1964, debate began on a proposed amendment put together by the Senate Republican and Democratic leadership and the Justice Department, authorizing temporary stays in the execution of any court order requiring immediate population-based reapportionment of State legislatures. The amendment, co-sponsored by Minority Leader Dirksen and Majority Leader Mansfield, was proposed as a rider to the pending foreign aid authorization bill. Dirksen had support among Senators from all sections, many of them under heavy home State pressure to ease the immediate court pressure for reapportionment. Criticism was voiced by liberal Members of the Senate and a mild filibuster was launched by Joseph Clark, Wayne Morse, William Proxmire, Gaylord Nelson, Paul Douglas, Philip Hart, and Abraham Ribicoff. By a rollcall vote of 30-63, the Senate on September 10 rejected a cloture motion by Everett Dirksen to close off the Northern liberal filibuster.

1965—On April 22, 1965, debate began on the amended Administration voting rights bill (S. 1564). The Senate leadership of both parties opposed a poll tax amendment in the bill after the Justice Department expressed doubt about its constitutionality. Accordingly, an amendment sponsored by Majority Leader Mansfield and Minority Leader Dirksen, which added to the bill a Congressional declaration that poll taxes infringed on the constitutional right to vote, was adopted on May 19. Allen Ellender, Herman Talmadge, and Strom Thurmond led the opposition overall to the bill. A debate-limiting

cloture motion, adopted on May 25 by a 70-30 rollcall vote, set the stage for passage of the bill on the 25th day of debate. The approval of cloture marked only the second time in history, but the second time in two years, that the Senate had voted to close off debate on a civil rights measure.

1965—On October 4, 1965, debate began on an Administration-backed bill to repeal Section 14(b) of the Taft-Hartley Act. Section 14(b) permitted States to enact right-to-work laws banning the compulsory union shop. Debate, although directed to the repeal proposal itself, technically was on a motion offered October 1 by Majority Leader Mansfield to make H.R. 77 the pending business of the Senate. The debate was the beginning of a filibuster conducted mainly by Republicans and Southern Democrats and led by Minority Leader Dirksen. The decision to drop the fight for repeal was made after the Senate on October 11, rejected (45-47) a motion by Mansfield to invoke cloture on debate. Two additional cloture votes taken on the bill in February 1966 failed as well.

1966—On September 7, 1966, debate on a motion to consider an Administration bill (H.R. 14765), the Civil Rights Act of 1966. Prospects for passage hinged upon Minority Leader Dirksen and the votes of Republican Senators. Major objections to the bill concerned Title IV (open housing provision) and Titles I and II (procedure respecting the selection of Federal and State jurors). On September 14, by a 54-42 rollcall vote a motion to invoke cloture was defeated. Failure of the cloture motion to pass was a defeat for the Administration. Twice before, in as many years, the Senate had voted cloture on civil rights bills, thus closing off filibusters conducted by Southern opponents. On September 15, Majority Leader Mansfield filed a second cloture motion which was voted on and rejected on September 19 by 52-41. Supporters gained the votes of two Northern Democrats, Bartlett and McGee, absent on September 14, but lost the votes of two Republicans, Allott and Dominick, and of two Democrats, Anderson and Harris. All of the latter four were absent on September 19. The opposition lost one vote, that of Republican J.S. Cooper who was also absent on September 19.

1966—On October 7, 1966, Wayne Morse introduced an amendment to the Higher Education Act of 1963 to provide for home rule in the District of Columbia. The Senate had passed a home rule bill in 1965 but the House refused to approve the Senate version passing instead a bill providing for a charter commission. Conferees never met on these entirely different bills. The Morse amendment was an effort to force the House into accepting home rule for the District. On October 10, the Senate rejected 41-37 a motion by Majority Leader Mansfield to invoke cloture on a threatened Southern filibuster against the home rule rider. After cloture failed, the Morse amendment was tabled, ending all possibility of home rule legislation in the 89th Congress. The short debate on the Morse amendment was occasioned by the leadership's desire to push on with the legislative agenda as adjournment was at hand.

1967—On January 12, 1967, formal debate began on proposals to modify the existing cloture rule which permits the ending of a filibuster by a two-thirds vote of the Senators present. The proposed change advocated by George McGovern and other liberals would have permitted three-fifths of those present and voting to end debate. Richard Russell, unofficial leader of those opposing change, was primarily supported by Senators Ervin and Dirksen. Majority Leader Mansfield filed a cloture petition on January 19. When the motion was defeated on January 24, by a 53-46 rollcall vote, Jacob Javits asked Mansfield to file a second cloture petition. Mansfield refused since no Senator on either side of the question was willing to change his vote.

1967—More than five weeks were spent debating the campaign fund issue, with Russell Long employing tactics of the filibuster. Debate began April 3, with Albert Gore and John Williams proposing an amendment to H.R. 6950 to repeal the Presidential Election Campaign Fund Act of 1966 originally sponsored by Long. By a 48-42 rollcall, the Senate on April 13 voted to accept the Gore-Williams amendment. On April 20, by a 46-20 rollcall, the Senate accepted an amendment by Long to retain a revised version of the 1966 Act. On April 25 (64-22), a Mansfield motion recommitted the bill to the Finance Committee. The same day, Long offered amendments to delete the July 31 repeal date included in Mansfield's recommittal instructions. On May 2, the Senate rejected the Long amendment. On May 9, the Senate accepted by a 93-4 rollcall vote Mansfield's amendment which, in effect, killed the Campaign Fund Act by making its provisions inoperative unless Congress voted otherwise. H.R. 6950 then passed the Senate by a 93-1 rollcall vote.

1968—When the Senate returned to work January 15, 1968, its pending business was an Administration bill (H.R. 2516) which provided protection for civil rights workers and others exercising their federally guaranteed rights. Formal debate began January 18. Southerners criticized the parliamentary move by which H.R 2516 had been made the pending business at the end of the 1967 session. In previous years, Southerners usually filibustered the motion to formally begin consideration of civil rights legislation, but this was denied them on H.R. 2516. Leading the opposition was Senator Ervin (D-N.C.).

On February 6, Walter Mondale (D-Minn.) proposed an open housing amendment to the bill which was cosponsored by Edward Brooke (R-Mass.) and endorsed by the Leadership Council on Civil Rights. President Johnson urged the Senate to adopt the open housing amendment. This amendment was vigorously contested in debate by those opposed to it.

Majority Leader Mansfield filed a cloture motion on February 16, which was rejected on February 20 by a rollcall vote of 55-37 (7 votes short of the two-thirds majority required for adoption). The support for cloture was greater than it had been for the last previous cloture motion on civil

rights legislation, September 19, 1966 (52–41). The increase came from the ranks of Republican Senators.

On February 26, the Senate defeated a second cloture motion on the open-housing amendment by a 56–36 rollcall vote. Everett Dirksen (R-Ill.) was considered instrumental in the defeat of this second motion. Of those who voted on both cloture motions, only Norris Cotton (R-N.H.) changed his vote. Cotton voted in favor of cloture making the Republican vote 19–17.

A 59–35 rollcall vote (4 short of adoption) defeated a third motion for cloture on March 1. This motion was on a compromise version of the amendment introduced by Dirksen and was expected to be adopted. The compromise would have reduced coverage on the open housing amendment exempting owner-occupied single family dwellings that were rented or sold privately.

The fourth, and final, cloture vote, March 4, also came on the Dirksen compromise and the Senate voted to invoke cloture by a rollcall vote of 65–32. Five Senators voted for cloture March 4 who had opposed it March 1. They were: E. L. Bartlett (D-Alaska), Howard Cannon (D-Nev.), Frank Carlson (R-Kans.) Albert Gore (D-Tenn.), and Jack Miller (R-Iowa).

The cloture vote was the eighth successful cloture vote since adoption of the cloture rule in 1917, and the third time cloture ws invoked on a civil rights bill. H.R. 2516 passed the Senate and became law.

1968—On September 17, 1968, the Senate Judiciary Committee by an 11–6 vote recommended the confirmation of Justice Abe Fortas for the post of Chief Justice of the United States. On September 24, Majority Leader Mansfield called the Senate into executive session and moved for the Senate to consider the nomination. His request for a rollcall on the motion was granted. The motion to consider the nomination was debatable and a filibuster to prevent a rollcall vote on that motion began on September 25. Robert Griffin led the fight against the nomination along with Howard Baker, Spessard Holland, Clifford Hansen, Sam Ervin, Gordon Allott, John Stennis, Paul Fannin, James Eastland, and Strom Thurmond. The effort to block a confirmation by means of a filibuster was without precedent in the history of the Senate. On September 27, Mansfield introduced a cloture motion which was defeated on October 1 by 45 to 43. On October 2, 1968, President Johnson withdrew his nomination of Abe Fortas to be Chief Justice of the United States.

1968—A bill to exempt presidential candidates from the equal-time provisions of the Communications Act of 1934 was stalled in the House for some period of time through the use of dilatory quorum calls. It finally passed the House but the Senate faced a threatened filibuster. Minority Leader Dirksen said he would instruct Republicans to remain off the floor to prevent a quorum. The bill died in the Senate when the leadership chose not to fight because of the rush toward adjournment.

1969—Debate began on January 9 on S. Res. 9, to amend Rule XXII to provide that the proportion of affirmative votes required for cloture be changed from two-thirds to three-fifths of those present and voting. On January 28, the Senate defeated a second attempt by Senate liberals to invoke cloture, the first being an abortive parliamentary maneuver to invoke majority cloture.

1969—Although not a filibuster, lengthy debate occurred in the Senate on S. 2546, a defense procurement authorization bill. At issue were funds for deployment of a controversial ABM Safeguard system. Senate consideration of the bill was the longest debate on any military measure since 1945 and one of the longest debates in the history of the Senate. Debate commenced July 8, with Committee Chairman John Stennis arguing in favor of passage of the bill including the ABM provision. In an unusual step he went to the Senate Press Gallery to make his plea for passage. Opponents of the ABM provisions were led by John Cooper, Philip Hart, and Albert Gore. They argued that the ABM would not work, was obsolete before begun, was a threat to world peace, and harmful to possible arms limitation talks with the Soviet Union. Proponents claimed the system was necessary to protect U.S. missile sites, would work, and that the Russians were not upset at the thought of deployment since they themselves were safeguarding their sites and cities. Debate continued fairly constantly from July 8 to August 6. On successive roll-calls of 50–51 (Vice President Agnew casting a negative, but unneeded, vote) and 49–51 the Senate approved the authorization in the bill for partial deployment of Safeguard anti-ballistic missiles by striking down amendments which would have prevented deployment. This occurred on August 6. Debate on other parts of the bill continued through August 12, after which a recess was held until September 3, when debate commenced again, lasting until September 18, when the Senate finally passed S. 2546. Debate occurred on this bill on 34 legislative days.

1969—President Nixon's nomination of Clement F. Haynsworth to the Supreme Court was rejected by the Senate November 21 by a vote of 45–55 after a week of debate. Judge Haynsworth, of South Carolina, had been opposed by labor and civil rights leaders because of some of his opinions rendered as a Federal Judge in the Fourth Circuit of Appeals. Senator Birch Bayh (D., Ind.) led those in the Senate opposed to Haynsworth's confirmation.

1970—President Nixon's nomination of G. Harrold Carswell, a Federal Judge of the Fifth Circuit of Appeals (Florida), to the Supreme Court occasioned bitter debate in the Senate, beginning on March 13 and running, intermittently, through April 8, when the Senate refused to confirm by a vote of 45–51. Civil rights groups were adamantly opposed to Judge Carswell, claiming that he had shown insensitivity to the problems of oppressed blacks in the South. Senator Birch Bayh (D., Ind.) once again, as with the Haynsworth nomination, led forces in the Senate opposed to Carswell.

1970—Seven weeks of debate occurred on the Cooper-Church amendment to the Foreign Military Sales Act (S. 3429, H.R. 15628). The amendment was occasioned by President Nixon's ordering of U.S. troops into Cambodia to eliminate Vietcong and North Vietnamese caches of weapons and food. The Cooper-Church amendment prohibited the President from retaining troops in Cambodia after July 1, 1970, without specific Congressional authorization. Administration forces in the Senate spoke at length against the amendment in order to delay a vote until the troops had withdrawn on July 1 as scheduled by the President. Certain amendments were added to the original wording of the Cooper-Church amendment in an attempt to preserve presidential initiative in the deployment of U.S. troops abroad, and to underscore his constitutional powers to take action to protect American troops engaged in combat. Debate on the amendment commenced May 13. On June 24, the Senate repealed by a vote of 81–10, the Tonkin Gulf resolution of 1964, which President Lyndon Johnson had used to support his escalation of the war in South Vietnam. On June 30, the Senate adopted a revised Cooper-Church amendment by vote of 58–37.

1970—A month was spent debating S.J. Res. 1, an amendment to the Constitution to abolish the Electoral College and substitute direct election of the President and Vice President, with provision for a runoff election should no ticket receive 40 percent of the popular vote in the first election. Opposition to the proposal was led by Senator Sam Ervin (D. N.C.), who, together with other Southern Senators and some Senators from small States, argued that to abolish the Electoral College would damage our Federal system of Government, diminish conservative political strength, diminish the power of small States, and create splinter parties. Proponents, led by Senators Bayh (D., Ind.), Bellmon (R., Okla.), and Hart (D., Mich.), argued that direct election would correct three shortcomings in the present method of electing the President: (1) the possibility of electing a President who receives fewer popular votes than his opponents; (2) the disenfranchising of many voters because of the unit rule which allots all a State's electoral vote to the winning candidates; and (3) the problem of the independent elector. Debate on the proposal began September 8. The first cloture vote was taken on September 17, with 54 voting to invoke cloture and 36 voting against cloture. With 90 Senators voting the total for cloture was 6 short of the required two-thirds vote under Rule XXII (but it was sufficient to invoke cloture were a three-fifths rule to be adopted). Debate continued. On September 24, Senator Bayh attempted to obviate the filibuster but was prevented by the Senate from setting aside the joint resolution to take up other noncontroversial legislation. A second cloture vote was taken September 29, with 53 for cloture and 34 against. This total again fell short of the two-thirds required although it was three-fifths of those present and voting. Senator Mansfield filed a third cloture petition with a vote scheduled for October 6. Proponents were unable to gain the

necessary numbers to invoke cloture, however, so on October 5, by agreement, the proposal was set aside until after the Senate returned from the election recess. S.J. Res. 1 was never taken up and died with the adjournment of the 91st Congress.

1970—President Nixon's welfare reform plan (Family Assistance Plan) was passed by the House in April of 1970 (H.R. 16311). In November the House passed a Shoe-Textile Import Quotas bill (H.R. 18970) which would have curtailed the importation of foreign-made shoes and textiles into the United States. In the Senate amended versions of both these measures were attached to the Social Security Amendment Act of 1970 (H.R. 17550) by the Finance Committee. This measure was reported to the floor of the Senate late in the session. Opponents of one or the other of these measures began at once to filibuster against them December 17. With Congress pushing toward mandatory adjournment, Russell Long, chairman of the Finance Committee, agreed to drop the controversial FAP and Trade Quota attachments to the Social Security benefits' increase.

1970—The Senate and the House became embroiled over the appropriation of funds for a controversial Supersonic Transport. The House had approved $290 million for continued construction of the plane in the Transportation Appropriations Act for fiscal 1971 (H.R. 17755). The Senate had voted to strike all funds for continued development. Senate conferees, however, agreed to a $210 million compromise. Senator Proxmire (D., Wisc.) took exception to this agreement and began to filibuster the conference report on December 16. Senator Hugh Scott (R., Pa.), the Minority Leader, filed a cloture petition immediately. It was defeated on December 19, by a 43–48 vote, failing to obtain even a mere majority of those present and voting. A second cloture attempt failed on December 22, by a 42–44 vote, again less than a majority. Following a Christmas recess, a compromise was worked out and Congress passed a continuing appropriation for the Department of Transportation and related agencies, funding their activities, including the SST, through March 30, 1971, at the levels approved in H.R. 17755. Assurances were given to opponents of the SST that a separate vote on continuance of the plane would be held in 1971.

1971—On January 25, the Senate began debate on Senate Resolution 9 to amend Rule XXII to reduce the number of votes required to invoke cloture from two-thirds to three-fifths of those present and voting. During six weeks of debate, proponents of the rules change tried unsuccessfully to invoke cloture on four occasions. After the rejection of the fourth cloture motion, the Senate abandoned attempts to reform Rule XXII in the 92d Congress.

1971—The attempt to obtain a two-year extension of the draft (H.R. 6531) provoked lengthy debate on (1) merits of the nation's conscription system and (2) the war in Vietnam. Those who favored speedy U.S. withdrawal from Vietnam sponsored a number of amendments to H.R. 6531 stipulating a date cer-

tain for withdrawal of all U.S. troops from Indochina. For example, the Senate defeated the McGovern-Hatfield amendment but adopted an amendment sponsored by Majority Leader Mike Mansfield requiring the withdrawal of all U.S. troops from Indochina within nine months, subject to the release of all American prisoners of war.

Senator Mike Gravel of Alaska and other opponents of the war and the draft hoped to continue debate indefinitely on the bill. On June 23, however, the Senate invoked cloture by a vote of 65 to 27, three more than the two-thirds majority required by Rule XXII. It was only the ninth time that the Senate had invoked cloture since the adoption of Rule XXII in 1917 and the first time since 1968. Cloture was largely attributable to the support of Senators who had never before voted to restrict debate—Alan Bible, Sam Ervin, Clifford Hansen, Ernest Hollings, B. Everett Jordan, John Sparkman, John Stennis, Herman Talmadge, and Strom Thurmond These Senators argued that the extension of the draft was vital to the national security and outweighed their preference for unlimited debate.

When the House refused to adopt the Mansfield amendment in conference, Senators Gravel and Alan Cranston of California attempted to begin another filibuster over approval of the conference report. On September 13, the Senate began its consideration of the conference report. On September 21 cloture was invoked by a vote of 61 to 30. Once more, Southern Democrats and Republicans provided the margin needed to end debate. Immediately after cloture was invoked, the Senate approved the conference report by a vote of 55 to 30.

1971—The Administration's proposal to guarantee a $250 million bank loan to Lockheed Aircraft Corporation prompted one of the most closely fought legislative battles of the 92d Congress. The Senate bill, S. 2308, established a program authorizing federal loan guarantees of up to $250 million to failing businesses judged essential to the national economy. To bring S. 2308 to the public's attention, Senator William Proxmire of Wisconsin and others began a lengthy debate to acquaint Senators with the negative implications of the measure.

Proponents of the bill, including John Tower, ranking minority member of the Banking, Housing and Urban Affairs Committee, and John Sparkman of Alabama, Chairman of the Committee, said Proxmire was leading a filibuster to prevent the Senate from voting on the measure before the scheduled August 6 recess.

Almost immediately after the debate began (July 21), Senators Tower and Sparkman circulated a cloture petition. The first attempt to invoke cloture came on July 26, and failed by a vote of 42 to 47. Two days later a second attempt was defeated 59 to 39.

Senator Proxmire offered to cooperate in ending debate if S. 2308 were withdrawn in favor of a bill that guaranteed a loan to Lockheed only. After a third unsuccessful attempt

(July 30) to invoke cloture, Proxmire's compromise was agreed to. On Friday, July 30, the House passed 192 to 189 a loan guarantee of $250 million to Lockheed. On Monday, August 2, the Senate passed the House bill, H.R. 8432, by a 49 to 48 vote.

1971—President Nixon's nomination of William H. Rehnquist, Assistant Attorney General in the Department of Justice, to fill the Supreme Court vacancy created by the retirement of Associate Justice John Marshall Harlan, provoked one of the briefest debates ever to be termed a Senate filibuster. After five days of hearings on the nominations of Rehnquist and Lewis F. Powell, Jr., to the Court, the Senate Judiciary Committee filed reports on November 30 certifying that both men were qualified to serve on the Court. After perfunctory debate, the Senate confirmed Powell's appointment on December 6 by a vote of 89 to 1. That same afternoon, discussion began on the confirmation of Rehnquist.

Indiana Senator Birch Bayh, who played a major role in the fight against confirmation of two earlier Nixon appointees to the Court, Judge Clement Haynsworth and Judge G. Harrold Carswell, urged the Senate to thoroughly consider the Rehnquist nomination before making a final decision. Bayh and others expressed doubt about Rehnquist's sensitivity on questions of equal rights for minorities and on other constitutional questions. Those who supported the Rehnquist nomination, including Minority Whip Robert Griffin of Michigan, asserted that opponents of the nomination were trying to delay the nomination indefinitely while Congress was seeking to adjourn *sine die*. On Tuesday, December 7, Senator Griffin charged Senator Bayh with leading a filibuster against a nomination which had overwhelming Senate support. On Wednesday, December 8, Senate Minority Leader Hugh Scott of Pennsylvania filed a cloture petition to end debate on Friday, December 10. That attempt failed by a vote of 52 to 42. After cloture had been rejected, Bayh moved to postpone final consideration of the nomination until January 18, 1972, in order to give Senators additional time to consider the nomination. The Senate rejected Bayh's motion 70 to 22. After losing this vote, Bayh was no longer willing to detain the Senate on the nomination; that same afternoon the Senate confirmed Rehnquist's appointment to the Court by a vote of 68 to 26.

1972—The attempt to broaden the powers of the Equal Employment Opportunities Commission (EEOC) was filibustered briefly before it was finally passed on February 22, 1972. Since the establishment of the Commission under the Civil Rights Act of 1964, reform advocates had pushed for legislation to grant EEOC broad enforcement powers, particularly the authority to issue cease-and-desist orders to employers who failed to comply with Federal equal employment opportunity standards. That authority was granted the Commission in S. 2515, a measure reported in October 1971 from the Committee on Labor and Public Welfare.

Floor debate began on January 19 with Labor and Public Welfare Chairman Harrison Williams of New Jersey and ranking minority member Jacob Javits of New York strongly supporting the committee bill. Senators Sam Ervin of North Carolina and James Allen of Alabama were among the chief opponents of S. 2515. Senator Peter Dominick of Colorado led those who supported the Administration's position, i.e., that the Commission's enforcement powers should be through court suits rather than through their own cease-and-desist orders.

Refusing to accept the cease-and-desist provisions of S. 2515, Dominick and others defeated two attempts to invoke cloture on the bill. The first came on February 1 and failed by a vote of 48 to 37, nine votes short of the required two-thirds. A second attempt two days later failed 53 to 35.

On February 15, after twice rejecting earlier attempts to substitute language deleting the Commission's cease-and-desist powers, the Senate adopted by a vote of 45 to 39 an amendment sponsored by Senator Dominick to provide court enforcement of the Commission findings. The Senate then invoked cloture on February 22 by a vote of 71 to 23 and passed S. 2515 by a vote of 73 to 16.

1972—The question of adopting an interim U.S.-Soviet arms control pact—S. Res. 241—led to a filibuster by those desiring to amend the agreement, a filibuster that came as a surprise to the backers of S. Res. 241. On August 3, the Senate ratified a U.S.-Soviet treaty limiting the number of anti-ballistic missile systems that each nation could possess. During the debate on the treaty, Senator Henry Jackson of Washington announced that he and Senators Hugh Scott of Pennsylvania and Gordon Allott of Colorado would propose an amendment to S. Res. 241 establishing conditions for negotiations aimed at a permanent offensive weapons agreement. The amendment stipulated (1) that any future agreement should assure nuclear equality for both nations; (2) that U.S. efforts in defense-related research and development should continue; and (3) that failure to successfully negotiate an offensive weapons agreement by 1977 would be grounds for abrogating the ABM treaty.

Senator J. William Fulbright, Chairman of the Foreign Relations Committee, urged that the amendment be rejected. Fulbright charged the supporters of the amendment with filibustering against the agreement itself. When Jackson and Fulbright could not agree on a schedule for consideration of the Jackson amendment and possible amendments to the Jackson amendment, the Senate was forced to defer action on the agreement until after its August 19 recess for the Republican convention.

When the Senate reconvened on September 5, Senate leaders were still unable to reach a scheduling agreement acceptable to both opponents and supporters of the Jackson amendment. On September 13, Senators Mansfield and Scott headed the list of those signing a cloture petition to end debate on the Jackson amendment and the interim arms

control agreement. On Thursday, September 14, the Senate invoked cloture by a vote of 76 to 15. After rejecting substitute amendments by Senators Fulbright, Symington, and Muskie, the Senate approved the Jackson amendment 56 to 35. Shortly thereafter, the Senate gave final approval to the agreement itself by a vote of 88 to 2.

1972—Legislation establishing an independent Consumer Protection Agency (CPA) was blocked by a filibuster during the closing days of the 92d Congress. S. 3970, sponsored by Senators Abraham Ribicoff of Connecticut, Charles Percy of Illinois, and Jacob Javits of New York would have created an independent non-regulatory agency authorized to represent consumer interests during formal and informal court proceedings involving Federal agencies. In addition, the CPA could be called in by state governments to assist in agency proceedings or court action at the state and local level which affected consumer interests.

The Senate began its debate on S. 3970 on September 21. Five days later the Senate defeated an amendment offered by Alabama Senator James Allen which would have restricted the new agency's involvement in court actions affecting consumer interests. Following the defeat of the Allen amendment, Senators Sam Ervin and Allen began a filibuster to prevent proponents of the bill from bringing the measure to a vote.

On September 29 the Senate defeated an attempt to invoke cloture by a vote of 47 to 29. On October 3 the Senate again refused to curtail debate, defeating a second cloture motion by a three vote margin, 55 to 32. Following an unsuccessful attempt by Senator Percy to arrange a compromise to curtail debate, the Senate defeated a third cloture motion 52 to 30, thus preventing the passage of S. 3970.

1972—Senate action on H.R. 13195, a strong anti-busing bill passed by the House, was obstructed by a filibuster as the 92d Congress drew to a close. Known as the Equal Education Opportunities Act, H.R. 13195 would have sharply narrowed the circumstances in which busing could be used to combat segregation in public elementary and secondary schools. Furthermore, the bill would have called for a reevaluation of all previous busing orders by federal courts and agencies in light of the new restrictions set forth in the bill.

Anticipating a possible delay in the Senate Labor and Public Welfare Committee, the bill's proponents, led by Senator James Allen of Alabama, succeeded in having H.R. 13195 placed directly on the calendar without referral to the appropriate standing committee. Supporters of the bill, fearing a filibuster, filed a cloture petition on October 6, before debate had formally begun. The first vote on cloture came on Tuesday, October 10, and failed by a 45 to 37 margin.

Proponents of the bill, including Senators Robert Griffin of Michigan and Howard Baker of Tennessee, charged that opponents of H.R. 13195 were conducting a filibuster to prevent a vote on the bill from taking place. The next day, a second cloture vote failed 49 to 39. Among those voting for cloture

was Senator John McClellan of Arkansas, the last remaining Member of the Senate to have never before voted for cloture. On Thursday, October 12, a third cloture vote failed by nine votes—49 to 38. Shortly thereafter, the Senate agreed to take up consideration of the Supplemental Appropriation Act of 1973, thus abandoning for 1972 any attempt to curtail school busing.

1973-74—An effort to attach campaign financing legislation to the Debt Ceiling bill, H.R. 11104, provoked a four day filibuster that for two days left the United States Treasury without the legal authority to borrow money.

The situation arose when an amendment by Senators Edward Kennedy and Hugh Scott providing for the public financing of congressional and Presidential elections was adopted by the Senate; H.R. 11104 had been previously passed by the House. The House, however, refused to accept the Senate amendments, and a compromise was worked out whereby the Senate would remove the provisions for public financing in congressional campaigns and repass the measure with public financing only for Presidential elections. It was at this point that Senator James Allen, who opposed all of the public financing provisions, initiated his filibuster, thus preventing the bill from going to a conference committee. During four days of debate, including sessions on both Saturday and Sunday, the Senate twice defeated cloture motions, 47-33 (December 2) and 49-39 (December 3). Since it was estimated that the Government would be bankrupt by the end of the week unless the debt ceiling was raised and extended as provided in H.R. 11104, the Senate agreed to drop all public financing provisions and pass the bill.

The issue, however, was not dead, as public financing proponents agreed to drop their fight only upon the guarantee that the Senate Committee on Rules and Administration would report out public financing legislation early in 1974. Another filibuster mounted against this bill, S. 3044, was defeated, 64-30, on April 9, 1974 (an earlier attempt at cloture during debate on S. 3044 had failed, 60-36, on April 4). This bill, the Federal Election Campaign Act Amendments of 1974, eventually became Public Law 93-443, although the public financing provisions pertained only to Presidential campaigns.

1974—Four attempts at invoking cloture failed as the Senate debated the Consumer Protection Act, S. 707, for nearly two months. The bill was heavily lobbied on both sides. The Consumer Federation of America, Ralph Nader's Congress Watch, and the AFL-CIO supported the measure, while the National Association of Manufacturers and the U.S. Chamber of Commerce opposed it. Senators James B. Allen and Sam Ervin led the filibuster, basing their opposition on the bill's provisions for an independent Consumer Protection Agency. Proponents of S. 707 predicted that the issue would be raised again in the 94th Congress.

The dates and votes of the four cloture attempts follow: July 30 (56–42), August 1 (59–39), August 20 (59–35), September 19 (64–34).

1974—A series of six cloture votes (four successful) on five different measures occurred during the last week of the 93d Congress (December 13–20, 1974). Notable was a filibuster led by Senator James B. Allen on a technical amendment, regarding school desegregation, to a Supplemental Appropriations Bill conference report. The amendment was offered after the conference report had passed the Senate. The filibuster to prevent its inclusion lasted five days; cloture was successfully invoked on the first attempt, December 14.

At roughly the same time, the Senate had been considering a conference report extending the Export-Import Act (debate began on November 26). Four attempts to invoke cloture failed and the report was twice returned to the conference committee by the Senate with instructions to include the Senate position on a number of issues. When final passge came on December 19, the report had been so amended.

Also, at the end of the session, the Senate invoked cloture on three bills (Trade Reform on December 13; Social Services on December 17; and Upholstery Import Regulations/Taxes and Tariffs on December 17) primarily to ensure germaneness of amendments rather than to cut off debate. In fact, cloture motions were filed prior to the beginning of debate on these measures and the purpose was also announced at this time.

1975—Prior to passage of a modified cloture rule, the Senate voted under the old cloture rule to end debate on House amendments to S. 281, the Regional Railroad Reorganization Act Amendments of 1975. The vote to close debate was 86–8, with two-thirds of the Senators present and voting recorded in the affirmative. Debate on the measure had only filled part of three days, but cloture was invoked primarily to insure adequate funding of certain railroads facing bankruptcy at the end of February.

1975—Two additional cloture votes under the old Rule XXII were taken in the course of Senate debate on a modified filibuster rule. Senate Resolution 4, as introduced, proposed to reduce the required vote to close debate to three-fifths of those Senators present and voting. Parliamentary maneuvers by several Senators, most notably Senator James B. Allen of Alabama, prevented the Senate from taking a vote to close debate by a simple majority. In a compromise measure, the Senate overturned an earlier vote by which it had affirmed its right to close debate on a rules change at the start of a Congress by a simple majority. In so doing, the Senate reaffirmed the doctrine of the Senate as a continuing body. A compromise resolution was substituted for the original language of S. Res. 4 and provided that cloture could be invoked, except on matters relating to Senate rules, by three-fifths vote of all Senators duly elected and sworn. In matters relating to Senate rules, cloture could be invoked by a two-thirds vote of those Members present and voting. Cloture

was invoked on this compromise language twice, on March 5, 1975, and on March 7, 1975, in both cases by votes of 73-21.

1975—The Senate established a new record for unsuccessful cloture votes taken on one measure during its consideration of the New Hampshire senatorial contest. During twenty-four days of consideration of Senate Resolution 166 expressing the sense of the Senate on certain procedural questions surrounding the New Hampshire dispute, six cloture votes were taken, and all failed to receive the necessary sixty votes to close debate. The issue was resolved when the contestants for the Senate seat agreed to withdraw their claims and participate in a new election. The Senate, in an amendment to S. Res. 54 (providing funds for the Select Committee on Nutrition), declared the seat vacant and postponed further consideration of S. Res. 166 indefinitely. The dates and votes on the six cloture motions are as follows: June 24 (57-39); June 25 (56-41); June 26 (54-40); July 8 (57-38); July 9 (57-38); and July 10 (54-38).

1975—The Reduction Act of 1975 was the first measure to be brought to a vote through the revised cloture rule. Senator Ernest Hollings circulated cloture petitions shortly after the bill was brought to the Senate floor in order to end debate and pass the tax bill before a spring recess. The Senate failed to invoke cloture on March 20, 1975 by one vote (59-58); a cloture vote the following day passed 83-13.

1975—The consumer protection agency bill which had been successfully filibustered in the second session of the 93d Congress was passed in the 94th Congress after the Senate invoked cloture on May 13, 1975 by a vote of 71-27. The bill had been pending before the Senate for five days.

1975—The Voting Rights Act was extended for an additional seven years after the Senate invoked cloture on the bill on July 21 and July 23, 1975. The principal delay in passage of the bill occurred not on the Senate floor, but in committee. The bill, when finally reported from committee, remained on the clerk's desk for nearly a week before its consideration was moved. In order to forestall a filibuster, and to prevent the expiration of the existing Voting Rights Act on August 1, 1975, Senator Mansfield introduced cloture motions at the earliest possible time. Debate on the motion to consider the bill was brought to a close on July 21, 1975 by a vote of 72-19, and debate on the bill itself was brought to a close by a vote of 76-20 on July 23, 1975.

1975—A resolution expressing the disapproval of the Senate toward the removal of oil price ceilings was tabled after the Senate failed to invoke cloture on July 28, 1975, by a vote of 54-38. The resolution had been debated by the Senate for six days.

1975—The first Senate filibuster after the August recess was directed in favor of a series of anti-busing amendments offered by Senators Robert C. Byrd (D., W. Va.) and Joseph Biden (D., Del.) to the Labor-HEW Appropriations Bill. Under the principal direction of Byrd, the filibusters were determined to force a recorded vote on the anti-busing amendments. It was thought by many that a vote to table the amendments

would pass, but that if a recorded vote on the amendments themselves could be forced, the anti-busing provisions would be passed. One cloture motion failed by a vote of 46–48. After the Senate voted 51–45 to pass the Byrd anti-busing amendments, a second cloture motion was approved 64–33 on September 24, 1975. The bill was before the Senate for eight days.

1975—Three separate cloture votes, all presented by Senator Mike Mansfield (D. Mont.), were eventually required to end debate on the Common Situs Picketing Bill (H.R. 5900). Opposition to the measure was led principally by Sen. Jesse Helms (R., N.C.). On November 11, 1975, the Senate adopted a motion to close debate on the motion to consider the bill. On November 14, a motion to close debate on the bill itself failed of adoption by a vote of 58–31, two votes short of the required three-fifths on the Senate. A second motion to close debate on the bill was adopted on November 18, 1975 by a vote of 62–37. Debate on the Common Situs Picketing Bill filled all or part of ten working days.

1975—Cloture was invoked in the Rail Services Bill (S. 2718) on December 4, 1975 by a vote of 61–27. No organized opposition in the form of a filibuster had formed against the bill, but the cloture motion was offered by Senator Hartke (D., Ind.) as a means to speed final action on the bill.

1975—A filibuster by Senator James B. Allen (D., Ala.) and others against the Intergovernmental Emergency Assistance Act (H.R. 10481, the New York Aid Authorization Bill) was quickly blocked. Senator Robert C. Byrd filed a cloture motion on December 3, 1975, the first day the measure was officially before the Senate. Debate was brought to a close on December 5, by a vote of 70–27. The measure was pending for only three days. An expected filibuster by Senator Allen against the appropriations bill implementing the New York City aid package did not materialize. Nonetheless, Senator Robert C. Byrd filed a cloture motion to close debate on this bill (H.R. 10647), but no cloture vote proved necessary.

1976—The first Senate filibuster of 1976 occurred during consideration of H.R. 8529, the Rice Production Act. The bill sought to remove limitations on the production of rice to change to a target price system from a quota system. Opponents of the measure, most notably Senator Russell Long and Senator J. Bennett Johnston, both from Louisiana, sought to delay consideration of the bill until the results of a price producer referendum required by the existing production law were announced by the Department of Agriculture. Supporters of the bill argued that H.R. 8529 established a new rice production policy and that the requirements of the existing law ought not prevent the Congress from changing that law. Senator Dale Bumpers' motion to bring debate to a close was adopted by a vote of 70–19 on February 3, 1976. The bill had been before the Senate for 5 days.

1976—Two successful cloture votes were required to end debate on a bill amending the Federal antitrust laws, H.R. 8532. The first cloture vote on June 3 occurred on a Senate substitute

to the House passed version of the bill. Cloture was invoked by a 67-22 vote. Opponents of the measure, most notably Senator James Allen of Alabama and Senator Roman Hruska of Nebraska, had submitted a large number of amendments prior to the cloture vote. In delaying consideration of the bill after cloture the opponents frequently sought to have the amendments read in full, demanded "live" quorum calls, called for the yeas and nays on nearly every vote, and frequently objected to routine unanimous consent requests. The final vote on the Senate substitute occurred five days after cloture was invoked the first time. A second cloture vote was necessary to end debate when the Senate leadership offered an amendment to the House approved version of the bill. The second filibuster began on August 27, cloture was invoked on the bill on August 31 by a vote of 63-27, and a final vote on passage of the measure occurred on September 8, 1976. After cloture was invoked, opponents of the measure called up many of their amendments offered prior to the cloture vote. At one point on August 31, 113 amendments to the bill were pending. Seven points of order were raised against various amendments on the grounds that the amendments were dilatory. The Chair sustained only two points of order. The measure was pending before the Senate for fourteen days.

1976—Opposition to the Civil Rights Attorney's Fee bill (S. 2278) led to the fourth successful cloture vote of the Second Session. The measure was brought before the Senate on September 21, 1976, and cloture was invoked on September 23 by a vote of 63-26. However, numerous amendments had been offered to the bill prior to the cloture vote, and significant delay resulted from their consideration, and from additional procedural motions offered by opponents of the bill. The measure was before the Senate for seven days, of which four days consideration occurred after cloture had been invoked.

1976—At the end of the Second Session, threatened filibusters led to the postponement of several measures, most notably amendments to the Clean Air Act, and a nomination to fill a vacancy on the Nuclear Regulatory Commission. A filibuster against a nuclear fuel enrichment bill threatened by some Senators was rendered moot when the Senate voted to table the bill.

1977—In one of his first acts as President, Jimmy Carter issued a proclamation offering a conditional pardon for most Vietnam-era draft evaders. In the Senate, opponents of Carter's pardon plan offered a sense of the Senate resolution (S. Res. 18) expressing Senate opposition to the President's pardon. Opponents of the pardon, led by Sen. James B. Allen of Alabama and Sen. Jesse Helms of North Carolina, sought to obtain a direct Senate vote on the resolution of disapproval. An attempt to end debate on the resolution failed when a cloture motion was rejected on January 24, 1977 by a 53-43 vote, seven votes short of the required sixty votes. The following day, the resolution was tabled by a 48-46 vote. The

measure was before the Senate intermittently for more than two weeks.

1977—The Senate failed to agree on proposed changes in the Cloture Rule when a compromise acceptable to most Senators in both parties could not be reached. The proposal, S. Res. 5, introduced by Senator Robert C. Byrd, sought to reduce the opportunities for delay once the Senate had voted to invoke cloture. As the resolution came before the Senate on May 9, it provided that cloture could not be invoked until a measure had been before the Senate for at least one day, limited to 50 hours the amount of time for debate after cloture was invoked, counted against the 50 hours the time needed for quorum calls and votes, and permitted the Senate to extend or further reduce the 50-hour limit by a two-thirds vote.

Opposition to the proposal, by minority party Senators led by Sen. Howard H. Baker, led to the submission of a compromise substitute, drafted by Senator Robert C. Byrd, in an attempt to gain minority party support for the measure. However, the compromise measure raised concerns among some supporters of the earlier version of S. Res. 5. The measure was laid aside without any attempt being made to invoke cloture. No final vote was taken on passage of either S. Res. 5 or the Byrd substitute. The Senate Republican and Democratic leaders subsequently appointed individual committees to study the problem of post-cloture delays, and to report their recommendations for appropriate Senate Rules revisions.

1977—Efforts to enact legislation to provide public financing of congressional general election campaigns were halted by a successful filibuster. The bill, S. 926, combined revisions in existing laws relating to public financing of presidential elections, with a new title establishing a congressional election campaign fund supported through personal income tax allotments. Opponents of the congressional campaign financing provisions, led by Sen. Howard Baker, and others, charged that public financing would give congressional incumbents yet another advantage in seeking re-election. Three cloture votes were taken on the measure, and all failed to achieve the necessary sixty votes. On July 29, the first cloture motion failed by a vote of 49-45; on August 1, a second motion failed 47-46, and a third motion failed on August 2, by a vote of 52-46. After the failure of the third cloture vote, the Senate adopted, by a vote of 58-39, an amendment by Senator James B. Allen to delete the congressional campaign financing provisions from the bill. In this modified form, the bill passed the Senate, but was never brought to the floor of the House. The measure was pending before the Senate for eight days.

1977—The natural gas deregulation bill, S. 2104, part of President Carter's comprehensive energy program, finally passed the Senate after the Senate was able to halt a post-cloture filibuster which had continued over thirteen days. The Senate began consideration of the bill on September 19; three days later, the Senate refused to table a substitute offered by Sen-

ators Lloyd Bentsen and James Pearson providing for the eventual end of price controls on newly discovered natural gas. Seeing that a majority supported the conept of deregulation, opponents announced their intention to filibuster the Bentsen-Pearson substitute. On September 26, the Senate invoked cloture on the Bentsen-Pearson substitute by a vote of 77-17. Opponents of deregulation, led by Senators James Abourezk and Howard Metzenbaum, began a post-cloture filibuster. The Senators called up amendments introduced prior to the cloture vote, refused unaninous consent requests, forced the reading of amendments in full, and required frequent roll-call votes on amendments. After a session lasting 37 consecutive hours (September 27-28), the Senate agreed to a motion by Sen. Robert Byrd to recommit the bill, and to immediately return the bill, amended to include new compromise language, to the floor. Some supporters of full deregulation refused to support the compromise, took up the post-cloture filibuster, and were subsequently joined by those Senators who opposed all end to price controls. The filibuster was broken when, on October 3, the Senate sustained several key parliamentary rulings by the presiding officer, Vice President Mondale. The Vice President ruled amendments to the Bentsen-Pearson compromise dilatory and out of order, because they did not apply to the new compromise bill which have been reported and had become the pending business on September 29. The Vice President was also sustained in a ruling that permitted Senators to withdraw their own amendments from consideration, thus limiting the ability of Senators to call up amendments offered by others. Also upheld by the Senate was a ruling from the Vice President that a quorum call may not be demanded under certain circumstances. As a result of these rulings, many amendments were ruled out of order, and opponents of natural gas deregulation ended their post-cloture filibuster. On October 4, the Senate voted 50-46 to accept the modified Bentsen-Pearson substitute, and the bill passed the same day by voice vote. The bill had been pending before the Senate for more than three weeks.

1978—Over the course of ten weeks, the Senate devoted thirty-eight days to debate two proposed treaties with Panama relating to the future status of the Panama Canal and the Canal Zone. The first pact, a neutrality treaty, gives the United States and Panama the permanent right jointly to defend the Canal, and provides that the canal shall remain open to all ships in times of peace and war. The second treaty cedes the Panama Canal to the Republic of Panama, effective in 1999; until that time, the Panamanian govenment will, in stages, assume greater involvement in canal operations and management. The neutrality treaty passed the Senate on March 16, and the cession treaty passed the Senate on April 18. The final passage of both treaties was by 62-38 votes. No attempt was made to invoke cloture on either treaty, nor were cloture efforts undertaken against

any of the several "reservations," or clarifying amendments, offered to either of the treaties.

1978—The Senate equaled a record it established during the New Hampshire Senate seat contest of 1975 when it failed six times during June 1978 to invoke cloture on the proposed labor reform bill, H.R. 8410. Two of the unsuccessful cloture votes occurred on the original version of the bill; the remaining four were taken on an amendment in the nature of a substitute offered by Sen. Robert C. Byrd. The bill sought to ease restrictions in existing law so as to grant greater freedom to labor unions in seeking to organize workers. Opponents of the measure, led by Senators Jesse Helms, Richard Lugar, and Orrin Hatch, organized a traditional filibuster in which a group of a dozen Senators shared control of the Senate floor, preventing the conduct of all but routine business. On June 8, the Senate rejected a cloture motion on H.R. 8410 as reported by a vote of 42-47; the following day, a second cloture vote failed, 49-41. Four additional cloture votes were taken on the Byrd substitute; the days and votes are as follows: June 13, 54-43; June 14, 58-41; June 15, 58-39; June 22, 53-45. After the failure of the sixth cloture vote, the Senate agreed to recommit the bill to committee, with the understanding that "if and when" it was reported back, the bill would become the pending business of the Senate. The bill was not reported back from committee in the 95th Congress. The bill was the pending business before the Senate for seventeen days.

1978—The Senate invoked cloture on the tax reduction bill at the beginning of the final week of the session, so that conferees would have time to settle differences between the House and Senate versions of the bill. The bill, H.R. 13511, came to the Senate floor on October 5. Although no filibuster was conducted against the bill, substantial debate was devoted to the Roth-Kemp amendment and to other amendments which sought to make far-reaching reductions in both personal and corporate income tax rates. The cloture petition was filed on October 6, and cloture was invoked on October 9 by a vote of 62-28. The bill passed the Senate on October 10, after it had been the pending business for five days.

1978—The final Senate filibuster of the 95th Congress occurred on the energy tax bill (H.R. 5263) conference report, part of President Carter's energy package. The House of Representatives had passed the President's energy package in the form of one bill, with several different titles; the Senate had divided the bill into five parts. Conferees then met on each of the five parts; Senate conferees submitted five separate reports, and House conferees sought to combine the five reports again into one package. Opponents of natural gas deregulation, led by Senator James Abourezk, sought to prevent consideration of the energy tax conference report, in hope of forcing the House vote on each of the remaining individual conference reports in the package. It was the aim of Senate opponents to force a separate House vote on natural gas deregulation. If given the chance for a separate vote, it was

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thought that the House would oppose deregulation. When the energy tax conference report came before the Senate on October 12, Senator Abourezk forced the reading of the report in full; Majority Leader Byrd immediately filed a cloture motion, and laid the bill aside temporarily until a cloture vote could be taken. On October 14, the Senate invoked cloture by a vote of 71–13, but Senator Abourezk, using a variety of parliamentary tactics, prevented a vote on the conference report for nearly sixteen hours. When it became clear that the House would not take a separate vote on the natural gas deregulation measure, Senator Abourezk ended his filibuster, and the conference report was passed 60–17.

On the final day of the session, a thirty-four hour long session spanning October 14 and 15, several measures failed of passage as a result of threatened filibusters, or as a result of failure to obtain unanimous consent to expedite Senate consideration of a bill.

1979—Early in the 96th Congress, the Senate tightened its rules to prevent a minority of its members from using post-cloture filibuster tactics to delay or kill a bill. On February 22, 1979, the Senate approved S. Res. 61, which provided that when three-fifths of the Senate voted to invoke cloture on a measure, a final vote on it is to occur after no more than 100 hours of further consideration, including quorum calls and roll-call votes. The measure also incorporated several floor amendments, largely intended to protect the rights of individual Senators during the 100 hours. The 78–16 vote came almost six weeks after Majority Leader Robert C. Byrd had first introduced a more comprehensive measure. That measure, S. Res. 9, developed strong opposition, and ultimately only the provisions on procedure under cloture, embodied in S. Res. 61, were considered. The Senate spent five days on S. Res. 61, during the first legislative day of the Congress, preserving the possibility of Senators ending debate by majority vote on attempts to change the rules.

1979—During the first session of the 96th Congress the Senate invoked cloture on only one measure, H.R. 3919, which proposed a windfall profits tax on domestic crude oil. Earlier in the session the House had approved an oil windfall profits tax, but the Senate Finance Committee had reported a bill with a smaller tax proposal. An impasse developed between Senators from oil States and others who opposed taxing oil discovered since 1978. Consideration of the bill began on November 15 with numerous amendments proposed. Majority Leader Robert C. Byrd filed four petitions to invoke cloture, three of which failed to receive a three-fifths vote. Cloture was finally invoked on December 17 by a vote of 84–14. H.R. 3919 passed the same day, but not in time to finish conference action before the first session adjourned. This measure was the pending business in the Senate for 21 days.

1980—Cloture was invoked for the first time in 1980 to end Senate debate on the confirmation of William A. Lubbers of Maryland to be General Counsel of the National Labor Relations Board. The vote came after a four-day filibuster by Senators

who argued that Mr. Lubbers, an employee of the NLRB, was too closely identified with labor unions to be an independent counsel. Majority Leader Robert C. Byrd filed two cloture motions, the second of which was adopted on April 22 by a vote of 62–34. The nomination, which was confirmed on April 23, 1980, had been the Senate's pending business for six days.

1980—The Senate failed three times to limit debate on the conference report on a measure (H.R. 10) to protect the rights of persons in State institutions. The filibuster began on April 23, and cloture petitions filed by Majority Leader Robert C. Byrd and Senators Birch Bayh and Dennis DeConcini failed. Cloture was finally invoked on May 1, after another petition filed by Majority Leader Byrd was adopted by a vote of 60–34. H.R. 10 was then set aside until May 6 for consideration under a six-hour time agreement. The measure passed the Senate that day after having been the pending business of the Senate for eight days.

1980—On May 14, 1980, the Senate invoked cloture in order to prevent non-germane amendments on a measure to protect soft drink products from antitrust challenges. S. 598 had 80 cosponsors, but its passage was threatened by opponents who sought to attach controversial nongermane amendments to it. A cloture motion was filed by Majority Leader Robert C. Byrd and adopted by a vote of 86–6. The measure passed on May 15, having been before the Senate for four days.

1980—President Carter's military draft registration plan passed the Senate on June 12 after opposition delays stretched over seven days, including one all-night session. H.J. Res. 521 was laid before the Senate on June 3, 1980, and a cloture motion was filed by Majority Leader Robert C. Byrd on June 6. Cloture was invoked by a vote of 62–32, but a post-cloture filibuster was attempted for another two days. A unanimous consent agreement was reached for a final vote, and on June 12 the measure passed after having been the pending Senate business for eight days.

1980—After two unsuccessful attempts to invoke cloture on the nomination of Don Zimmerman of Maryland to the National Labor Relations Board, the Senate voted to limit debate and confirmed him on August 5. On August 1 and 4, cloture motions filed by Majority Leader Robert C. Byrd failed to receive a three-fifths vote. A third motion filed by Senator Byrd was agreed to by a vote of 63–31 on August 5. Opponents of the nomination had criticized President Carter's choice because they feared his support of labor might affect the labor board's traditional political balance. The nomination was the pending business for six days.

1980—On August 19, 1980, the Senate passed H.R. 39, known as the Alaska Lands bill, after an unusual parliamentary tangle. Debate began on the measure on July 21. Before recessing on August 5, the Senate voted to again take it up on August 18 and to vote on a cloture petition filed by Majority Leader Robert C. Byrd. Cloture was necessary because, in spite of a time agreement, Senator Mike Gravel, an opponent of the

measure, was able successfully to use a series of parliamentary moves as delaying tactics. Cloture was invoked on August 18 by a vote of 63-25, and on August 19 the Senate passed the bill to exclude portions of the public lands in Alaska from certain types of development. H.R. 39 was the pending Senate business for 12 days.

1980—A routine House-passed ship tonnage bill, H.R. 1197, became controversial in the Senate after Senators of some coal-producing States, led by Senators Robert C. Byrd, Wendell Ford, and John Warner, tried to amend it to include strip mining provisions. Their amendment sought to exempt States from having to comply with the regulations written to implement the Surface Mining Control and Reclamation Act, which they said were arbitrary and inflexible. When the measure was placed before the Senate on August 19, Senators John Melcher and Howard Metzenbaum were prepared to introduce over 200 amendments as delaying tactics. However, a substitute version of the tonnage bill that incorporated the strip mining amendments was offered, along with a series of first and second degree amendments. These actions prevented other amendments from being considered until the pending second degree amendments were acted upon. Senator Byrd continued to offer amendments, but also filed a cloture motion on August 19. Cloture was invoked on August 21 by a vote of 61-32. Senators Metzenbaum and Melcher tried to delay the proceedings after cloture had been invoked, but finally entered into a time agreement. H.R. 1197 passed by a voice vote on August 22, 1980, after having been the pending Senate business for five days.

1980—As the 96th Congress neared adjournment, the Senate faced two simultaneous filibusters. The first was on H.R. 5200, known as the "Fair Housing Amendments" to the Civil Rights Act of 1968. When Majority Leader Robert C. Byrd moved to bring the measure up for Senate consideration, opponents immediately launched a filibuster. This legislation, considered by some to be the most significant civil rights legislation since the Voting Rights Act of 1965, sought to enhance the enforcement powers of the 1968 law that forbade housing discrimination. The major dispute in the Senate was over procedures for enforcing prohibitions against discrimination in the sale or rental of housing. Majority Leader Robert C. Byrd filed two cloture motions in an attempt to cut off debate and proceed to the consideration of H.R. 5200. The first failed by a vote of 51-39 on December 3, nine votes short of the sixty needed. The following day the Senate voted 62-32 for cloture, which in effect limited debate to 100 hours on the motion to proceed to the consideration of the Fair Housing bill. With the pressure of an impending adjournment, the opponents vowed to begin another filibuster against the measure itself. On December 5, Majority Leader Byrd, having obtained unanimous consent for this purpose, filed a cloture motion toward ending debate on H.R. 5200 and offered his proposal to take a vote on December 9 on the motion to bring up H.R. 5200. If the motion to take up H.R.

5200 passed, he proposed a vote immediately to invoke cloture on the bill itself. Senator Byrd promised, however, that if cloture failed, he would withdraw the bill. On December 9, the Senate voted to proceed to consideration of the measure, but, by a vote of 54-43, failed to close debate on the measure, thus ending its chances for passage in the 96th Congress. The bill was before the Senate for six days.

1980—The last filibuster of the 96th Congress ended on December 9, the same day the Senate defeated the motion to end debate on the "Fair Housing Amendments." After defeating that earlier cloture motion, the Senate voted 68-28 to close further debate on the nomination of Stephen Breyer of Massachusetts to be a U.S. Circuit Judge for the First Circuit. The nomination had come to the Senate floor on November 25, but some Senators had objected that it had not been properly reported by the Judiciary Committee. The nomination was ultimately sent back to the Committee, which later approved it by a vote of 12-0. A Harvard law professor and former Judiciary Committee chief counsel, Mr. Breyer was the last one of the Carter Administration judicial appointments to be considered. In exchange for Republican support, Senator Kennedy had agreed not to seek action on other Carter judicial nominations pending in the committee. Nonetheless, the nomination was opposed by Senators Robert Morgan and Gordon Humphrey, who conducted a filibuster. Stephen Breyer was finally confirmed on December 9, after his nomination had been the Senate's pending business for four days.

1981-1982—The first extended debate of the 97th Congress continued intermittently from June 16, 1981, into the second session. As soon as the Senate took up the Justice Department Authorization bill, S. 951, an amendment was offered by Senator Helms to restrict school busing, to which Senator Johnston offered an expanded substitute on June 22. On July 8, a cloture motion was filed on the bill, which might have rendered the pending amendments out of order as nongermane; this cloture motion was defeated, 38-48, on July 10. Through September 10, three cloture motions on the Johnston substitute were defeated, the second time by 59-37 with one Senator withholding his vote for cloture because of a live pair. On September 16, a fourth cloture motion on the substitute was agreed to, 61-36, the amendment was agreed to, 60-39, and a cloture motion was filed on the Helms amendment, as amended. On December 10, cloture was invoked on this amendment, 64-35, and a motion to extend the time for post-cloture debate to 124 hours was tabled. On February 4, 1982, the Helms amendment was agreed to, 58-38, and a cloture motion was filed on the bill. On February 9, a second such motion was filed, but rendered moot by the Senate's agreement to the first motion, 61-33. On February 23, an amendment to the bill in the nature of a substitute and a perfecting amendment to the bill, both repeating the text of S. 951, as amended, were offered, in order to restrict the ability of the measure's opponents to call up further amendments.

During the post-cloture period, numerous motions, appeals, and amendments still were considered, tabled, or ruled nongermane or dilatory. On March 2, pursuant to a unanimous consent agreement under which other pending amendments were withdrawn, the perfecting amendment was agreed to by voice vote, and the bill was passed, 57-37. In all, the Senate had considered, or acted with respect to, S. 951 on 24 days. The measure then went to the House of Representatives, where it was not reported from committee.

1981—The issue of voluntary school prayer prevented Senate passage in 1981 of fiscal 1982 appropriations for the State, Justice, and Commerce Departments. During debate on the appropriations measure, H.R. 4169, in mid-November, Senate action was slowed by debate on an Appropriations Committee amendment to delete House language to prevent the Justice Department from spending money to block implementation of voluntary school prayer programs. Several votes were taken on the prayer issue before a vote on a cloture motion filed by Senator Helms. That motion failed by a vote of 59 to 35 on December 11, 1981, and the bill was laid aside. Funding for the agencies was included in a continuing resolution when it became clear in November 1981 that the appropriation bill was in jeopardy. This measure was the pending Senate business for eight days.

1982—A last-minute compromise ended twelve days of Senate debate on a measure providing for television and radio broadcasting of Senate floor proceedings. On April 21, 1982, the Senate amended and agreed to S. Res. 20, including an amendment requiring the Rules and Administration Committee to report a second resolution proposing a complete plan for broadcasting Senate debates. Earlier, by a vote of 47 to 51, the Senate had defeated a cloture motion filed by Majority Leader Howard Baker to limit debate on the resolution. No votes were taken on two other cloture motions filed by Senator Baker. The Senate had considered S. Res. 20 off and on since February 1982. The final vote on S. Res. 20 as amended was 95-1.

1982—Efforts to revise the Federal criminal code in the 97th Congress were unsuccessful when the Senate failed to limit debate on a motion to consider the bill (S. 1630), which was then withdrawn from consideration. The vote against cloture, 45-46, occurred on April 27, 1982. The motion to proceed to consideration was withdrawn although it had been pending before the Senate for only two days. The Chairman of the Senate Judiciary Committee and the bill's chief sponsor, Senator Strom Thurmond, withdrew the motion when no agreement could be reached to limit the amendments to be proposed.

1982—An emergency housing stimulus plan jeopardized and delayed Senate passage of an urgent supplemental appropriations measure (H.R. 5922) in late May 1982. The measure was pending before the Senate for three days, with most of the time devoted to working out an agreement over the housing program. Under the agreement reached, a motion filed

by Majority Leader Baker to limit debate on the measure passed by a vote of 95 to 2 on May 27, 1982. Further, by a two-thirds vote of 63 to 27, the Senate agreed to a motion by Senator Richard Lugar to suspend Rule XV and portions of Rules XVI and XXII, thus permitting consideration of the housing amendment. That amendment increased the Appropriations Committee recommendation for the housing program from $1 billion to $5.1 billion. By a vote of 69 to 23, the Senate then agreed to add the new housing program, and H.R. 5922 subsequently passed the Senate on May 27, 1982.

1982—In June 1982, a group of Senators led by Senator Jesse Helms conducted a six-day filibuster on a motion to proceed to consideration of a measure (S. 1992) extending the Voting Rights Act of 1965. The Senate began debate on the motion on June 9, 1982; on the fourth day of debate, cloture was invoked on the motion by a vote of 86–8. However, Senator Helms and other Senators continued to delay action. The filibuster was finally broken after the majority leadership announced that the Senate would take up no other business until the voting rights bill was completed, thus depleting as swiftly as possible the 100 hours for post-cloture debate allowed by the rule, and forcing the filibuster leaders to use up the one hour periods that the rule allots to each Senator. Senator Helms was also persuaded to give up the filibuster by promises from the leadership that issues of interest to him such as abortion and school prayer would be taken up at a later date. Accordingly, on June 17, 1982, the Senate voted 97–0 to begin consideration of the measure. Afterwards, the Senate considered some 22 amendments in less than 24 hours, and passed S. 1992 on June 18, 1982. This measure was pending before the Senate for seven days.

1982—The Senate leadership invited amendments to H.J. Res. 520, setting the level of the temporary national debt limit, as a means of providing for floor action on school prayer and abortion. On August 16, when the Senate took up the measure with a committee amendment in the nature of a substitute, since proponents of Senate action on these questions had not yet settled on language to propose, they offered an amendment to add the words "Title II" to the committee substitute. At the beginning of consideration on August 18, Senator Helms gained the floor, modified his amendment to incorporate the "Voluntary School Prayer Act of 1982," and then offered another amendment, to prohibit abortions, as an amendment to his own first degree amendment. When opponents recovered the floor, they offered language maintaining court jurisdiction on both questions as first and second degree amendments to the original text of the resolution, thus precluding the offering of further amendments. Debate continued until on August 20, the last day before the recess, a cloture motion was filed on the Helms abortion amendment. On September 9, this motion was defeated, as were two similar subsequent motions, the vote most favorable to cloture being 50–44. On September 15, the abortion amendment was tabled, making a fourth motion moot. Beginning

on September 16, five cloture motions (one later withdrawn) were filed on the Helms school prayer amendment. The most favorable vote on any of these motions was 54–46; a motion to table this amendment failed as well, 47–53. On September 23, a motion was tabled, 51–48, that H.J. Res. 520 be recommitted and reported back with the school prayer provisions incorporated. A leadership motion that it be recommitted and reported back without amendments then was agreed to, 79–16. The measure then passed, after 17 days of debate, by 50–41; it became P.L. 97–270.

1982—After two unsuccessful attempts to invoke cloture, a measure governing the contribution of damages in antitrust price-fixing suits (S. 995) was removed from consideration late in the 97th Congress. Both of the votes to invoke cloture occured on December 2, 1982, on motions filed by Majority Whip Ted Stevens. The first vote of 38–52 was on a Judiciary Committee amendment and the second vote of 44–51 was on the bill itself. After the votes, Senator Strom Thurmond, Chairman of the Senate Judiciary Committee and chief sponsor of the legislation, said that he could not in good conscience insist that the Senate continue working on the measure when it seemed clear that opponents had the votes to continue the filibuster. This measure was the pending business for three days.

1982—Attempts to establish a radio station (Radio Marti) to broadcast to Cuba failed in the latter part of the 97th Congress. Opponents led by Senator Edward Zorinsky kept the measure from reaching the floor for consideration by conducting a filibuster off and on for five days on a motion to waive the requirements of the Congressional Budget Act in order to permit consideration of the Radio Marti measure (H.R. 5427). Senator Zorinsky stated that he objected to consideration of the budget waiver because it was voted on at a Foreign Relations Committee meeting that had not been approved by the Senate even though it was held more than two hours after the Senate went into session and thus violated Senate rules. No attempts were made to invoke cloture during the time the Senate considered the motion to waive the Budget Act.

1982—The last cloture situation of the 97th Congress involved the Surface Transportation Assistance Act (H.R. 6211), which included a five-cent rise in the tax on gasoline. When a motion to consider the bill was made on December 10, a cloture motion was filed immediately; on December 13, both motions were agreed to. The next day, a cloture motion was filed on an amendment in the nature of a substitute, which included aspects of the proposal reported from other committees, and one on the bill itself. Both were rejected (48–50 and 5–93), in part to protect potentially non-germane amendments several Senators wished to see adopted. On December 16, the Senate laid the bill aside for marathon weekend sessions on the fiscal 1983 omnibus continuing resolution. Returning to the bill on December 20, the Senate agreed to a motion to reconsider the vote on invoking cloture on the substitute, and invoked cloture, 87–8. It then adjourned for one minute to

make third reading in order, and passed the bill, 56–34. On the same day, the Senate proceeded to consider the conference report, on which a cloture motion was then filed; on December 23, cloture was invoked, 81–5 and the conference report was then agreed to, 54–33. The bill became P.L. 97–424; the Senate had considered it for 9 days.

1983—A motion to proceed to consider S. 47, concerning shipping antitrust regulations, was ruled out of order on February 22, because the bill had not lain over for one legislative day since being reported. On the 23d, the motion to consider the bill was renewed, and debate began on the motion, but on the 24th, the Senate agreed by unanimous consent to consider the bill, and a cloture petition on the bill was presented. On March 1, however, opponents stated that they would not extend their opposition, the pending cloture vote was vitiated, and the bill passed, 64–33.

1983—The first cloture votes of the 98th Congress involved the emergency job and recession relief bill (H.R. 1718). Senator Robert Kasten offered an amendment repealing tax withholding on dividend and interest income, rather than accepting Majority Leader Howard Baker's offer of a later "free standing" vote on this proposal. The Chairman of the reporting committee, Senator Robert Dole, led opposition to the amendment. After three days' debate, Senators Dole and Kasten both sought recognition to offer cloture petitions. Senator Dole was recognized first, insuring that the first cloture vote would come on the bill. If his cloture motion had succeeded, the Kasten amendment might have fallen as nongermane. However, this motion was defeated, 50–48. Next, Senator Kasten's motion for cloture on his amendment came to a vote. The leadership opposed this motion actively, and the motion lost by only one vote, 59–39. The Senate then temporarily laid the bill aside. Subsequently, Senator Baker filed a second cloture petition on the bill. Senator Kasten and the leadership later agreed that the amendment would be offered instead to a trade bill, which was pending on the Calendar, immediately after the upcoming Easter recess. H.R. 1718 then passed the Senate on March 17, after having been the pending business for seven days.

1983—For the second time in a month, the issue of repeal of tax withholding on interest and dividend income was before the Senate, which ultimately yielded to the largest lobbying effort and most massive letter campaigns in history. As previously arranged, Senator Robert Kasten offered his repeal proposal as an amendment to S. 144, the International Trade and Investment Act. Subsequently, he filed two cloture petitions on the amendment. When the time for the first cloture vote arrived, the leadership moved to adjourn the Senate instead, but the motion failed, and proponents and opponents began to work out a compromise. Subsequently, Senator Kasten asked his supporters to vote against cloture, to allow him to offer such a compromise later as an amendment. Accordingly, two cloture votes, on April 19 and 20, failed by votes of 34–53 and 39–59 respectively. A compromise plan

was later offered by Senator Robert Dole (R-Kan.), Chair of the Committee, in the form of a motion to recommit the bill with instructions that it be reported back with the compromise included. However, this agreement among the Republicans ran into difficulty because Senator Russell Long (D-La.), ranking minority member of the Committee, called for a vote on outright repeal. He moved to amend the instructions to provide that the bill be reported back with straight repeal included. This amendment, however, was tabled. Accordingly, on April 21, the motion to recommit passed the Senate, and the bill with the compromise amendment was passed the same day. Under the compromise, withholding would be delayed until July 1, 1987, and would be implemented only if the General Accounting Office found that interest and dividend tax cheating had not been diminished substantially and only if both Houses of Congress agreed with the GAO's findings. S. 144 was the pending business for six days.

1983—The Senate debated S. 675, the defense authorization bill, for 13 days, more than a week of which focused on attempts to remove from the bill funds for production of the MX missile. Proponents of the missile were at first reluctant to move for cloture, because opponents were said to have prepared over 150 amendments for possible use in a "post-cloture filibuster." However, the leadership ultimately filed six cloture motions on the bill or the committee substitute, fearing that the House, which was debating its own defense authorization bill, might reject MX funding, and thereby strengthen the determination of the Senate MX opponents. On July 21, after the House had voted to authorize the funds, the Senate failed to invoke cloture on the bill, 55–41, and the cloture vote on the committee substitute was vitiated. At this point, both sides agreed to a time certain for a vote on the amendment to strike MX funds from the bill, and the other cloture petitions were vitiated. The following week, the amendment was defeated, 41–58, and the bill passed, 83–15.

1983—In late July, opponents of a bill (S. 602) to provide Federal funding for radio broadcasts to Cuba ("Radio Marti") began extended debate in opposition to a motion to proceed to consider the measure. After two days of debate, cloture was invoked on the motion to proceed, but the motion to proceed itself was agreed to only after the August recess. The bill then passed on the same day, having been the pending business for five days.

1983—When the Senate received H.R. 3706, creating a Federal holiday for Martin Luther King's birthday, the measure was not referred to committee, but placed on the Calendar. On October 3, after debate began on a motion to proceed to consider the measure, a cloture petition on the motion was filed. Two days later, however, the cloture motion was withdrawn as part of an agreement that the measure would be considered after the Columbus Day recess, that a motion would then be made to commit the bill, and that if this motion failed, a final vote would occur the following day. The motion to

commit subsequently failed, and the bill passed, 78–22, on October 19.

1983—On November 3, the Senate invoked cloture (86–7) on a motion, offered November 1, to proceed to consider a bill (S. 1715) to remove controls on natural gas prices. When the Senate began consideration of the measure, Senator James McClure, the Committee Chairman, offered an amendment, to which it was expected that Senator Bennett Johnston, the ranking minority member, would offer a second-degree amendment, giving the bill's supporters initial control of the debate. However, Senator Howard Metzenbaum, an opponent of the bill, obtained recognition instead, and offered his own second-degree amendment. Although several Senators protested that Senate tradition gives floor managers preference in recognition, the Chair stated that he had recognized the Senator who had first addressed him, as required by Senate rules. As adjourment of the session approached, the Senate returned the measure, which had been the pending business for five days, to the Calendar.

1983—On November 14, the Senate took up a motion to proceed to consider H.J. Res. 290, suspending tariffs for participants in the 1984 Olympic games, and a cloture petition was filed on that motion. On the following day, a second petition was filed, but neither ever came to a vote, because a unanimous consent agreement was reached to take up the measure on the 16th. The resolution passed by voice vote on the 18th.

1984—Cloture was invoked for the first time in 1984 on a measure to reinstate the death penalty for certain Federal crimes, ranging from treason to attempted or actual assassination of the President. The 65–26 vote to end the five-day filibuster against S. 1765 came during two weeks of Senate work on anti-crime legislation promoted by the Administration. The cloture vote took place on February 9, and the Senate passed the bill on February 22, after the Lincoln-Washington Birthday recess.

1984—On March 2 the Senate began its long-promised debate on school prayer, considering a proposed constitutional amendment protecting prayer in public schools. During the 11 days of debate, several proposed prayer amendments were discussed in the Senate, but voting ultimately occurred on S.J. Res. 73, on March 20. The measure failed to receive the required two-thirds majority (56–44). No cloture motions were filed during this debate.

1984—A cloture petition was filed soon after Senator Howard Metzenbaum began extended debate in opposition to a motion that the Senate concur in House amendments to S. 268, to preserve existing low rates for power from the Hoover Dam. The cloture vote took place in July 30. When 60 Senators had not voted for cloture by the time the minimum 15-minute voting period had elapsed, Senator Metzenbaum called for the regular order, which would have been the announcement of the result. However, in order to enable the leadership to assemble the minimum 60 votes needed to invoke cloture, several Senators repeatedly switched their

votes back and forth until 60 Senators had voted in the affirmative. Senator Metzenbaum then decided not to pursue his opposition, although he had been prepared to launch a post-cloture filibuster. The Senate subsequently agreed to the motion to concur after debating the issue for four days.

1984—The Senate approved the nomination of J. Harvie Wilkinson to a Federal Appeals Court seat on August 9, after it had been the pending business for five days and had been stalled in the Senate for some eight months. The Senate first took up the nomination of May 23 and 24. Although it was not taken up again until July 30, it had been the subject of persistent controversy. On July 31, the Senate failed (57–39) to agree to a motion for cloture filed by Senator Howard Baker. After Majority Leader Baker filed another motion, scheduled for an August 2 vote, the Senate agreed to a one-week postponement of the cloture vote while the Judiciary Committee held a rare additional hearing on the nomination. The agreement also called for an immediate final vote on the nomination should cloture be invoked. Subsequently, on August 9, cloture was invoked (65–32) and the nominee was confirmed.

1984—A usually uncontroversial agriculture appropriations bill (H.R. 5743) became the subject of extended debate when Senator Lawton Chiles, ranking minority member of the Budget Committee, opposed action on the measure while no First Budget Resolution for fiscal year 1985 had been adopted. The Budget Resolution had been held up by a dispute on defense spending levels. As routinely done, the Senate had allowed the appropriations measure to reach the floor by agreeing to a waiver of the Budget Act. Two days after the debate began, Majority Leader Baker filed a cloture petition. The Senate defeated this first motion, 54–31, but later agreed to a second cloture motion, 68–30, and passed the bill the same day. H.R. 5743 was the pending business for seven days.

1984—On September 13, the Senate passed a banking deregulation measure (S. 2851) after it had been the pending business for six days. The Senate voted cloture on the motion to proceed to consider the bill, 89–3, then agreed to consider the bill, 95–2. Proponents responded to indications that extended debate would continue by filing a cloture petition on the bill, and the Senate agreed to cloture, 92–6. The bill was then passed without experiencing further delays.

1984—The long-awaited question of whether the Senate would allow television and radio coverage of its proceedings abruptly ended near the conclusion of the 98th Congress when the Senate voted decisively not to end a filibuster against the proposal. S. Res. 66 was sponsored by retiring Majority Leader Howard Baker, a persistent advocate of live coverage of Senate activity. On September 13, the Senate took up a motion to proceed to consideration of the measure. Opponents led by Senators Russell Long and Wendell Ford, began a filibuster arguing that broadcasting would alter the traditional manner in which Senate debate takes place. Senator Baker filed a cloture petition on the motion to proceed, and cloture was invoked on September 18 (73–26). Once the

Senate took up the proposal, however, it indicated that it was not ready to adopt it when a petition for cloture on the resolution, filed by Senator Baker, was rejected on September 21 (37-44). After the defeat of that motion, Senator Baker withdrew his proposal for the session, saying "This is an idea whose time has not come." S. Res. 66 was the pending business for four days.

1984—During the closing days of the 98th Congress, a bill (S. 2527) to release highway funds to States was the subject of extended debate. After cloture was invoked on the motion to proceed to consider the measure, 70-12, opponents indicated that they would continue to press their objections, and other Senators engaged in extended debate against a proposed amendment adding a civil rights measure to the bill. A cloture petition was filed on the bill, but vitiated when it became necessary for the Senate to turn to other business. Although S. 2527, which had been the pending business for three days, was not brought up again, the Senate later passed another bill.

1984—The last cloture petitions of the 98th Congress were filed on a series of possibly nongermane amendments to the fiscal 1985 continuing resolution, H.J. Res. 648. The situation led several Senators to express fears that the Senate would, by reversing rulings from the Chair under cloture that amendments were not germane, establish a precedent that would in effect permit "majority cloture." When the measure was called up on September 27, a substitute for the first committee amendment, and an amendment to the substitute, were offered. These were intended to counteract those portions of the Supreme Court's ruling in *Grove City College* v. *Bell*, earlier in 1984, that limited the application to colleges of law against sex discrimination. A cloture petition was filed on each amendment. When the defense of germaneness was raised against a point of order that the substitute would constitute legislation on an appropriation bill, the Senate held the substitute germane, and so in order, by 51-49. Amendments were then offered to the substitute, adding language to establish a tax credit for private school tuition; to the text proposed to be stricken by the committee amendment, relaxing firearms controls; and to the firearms amendment, adding language restricting courts' authority to use school busing for integration. A cloture petition was filed on the committee amendment, and second petitions were filed on each amendment already the subject of such a motion. On September 29, the Senate invoked cloture on the *Grove City* substitute, 92-4. With the Senate proceeding under cloture, the school busing amendment was ruled nongermane, and an appeal from this ruling was tabled. However, when the gun control amendment was also ruled nongermane, the Senate rejected a motion to table an appeal. Then, on October 1, the Senate voted, 60-37, to reconsider tabling the first appeal as well, and on reconsideration, the tabling motion was defeated, 41-56. After a day of negotiation, the *Grove City* amendment was tabled, 53-45, the gun control amendment was

tabled by voice vote, and the cloture petitions on the committee amendment were vitiated by unanimous consent. The measure was then passed on October 4.

Measures delayed or defeated by filbusters [1]

Measures	Year	Length of debate
Reconstruction of Louisiana	1865	5 days.
Repeal of election laws	1879	4 days.
Force bill (Federal elections)	1890-91	33 days.
River and harbor bills (3)	1901	1 day.
	1903	Do.
	1914	11 days.
Tristate bill	1903	
Colombian Treaty (Panama Canal)	1903	
Ship subsidy bills (2)	1907	2 days.
	1922-23	2½ months.
Canadian reciprocity bill	1911	
Arizona-New Mexico statehood	1911	2 days.
Ship purchase bill	1915	33 days.
Armed ship resolution	1917	23 days.
Oil and mineral leasing bill and several appropriations bills	1919	
Anti-Lynch bills (3)	1922	4 days.
	1935	6 days.
	1937-38	29 days.
Migratory bird bill	1926	
Campaign investigation resolution	1927	
Colorado River bills (Boulder Dam project) (2)	1927, 1928	
Emergency officers retirement bill	1927	
Washington public buildings bill	1927	
National-origins provisions in immigration laws, resolution to postpone	1929	1 day.
Oil industry investigation	1931	2 days.
Supplemental deficiency bill	1935	1 day.
Work relief ("prevailing wage" amendment)	1935	
Flood control bill	1935	1 day.
Coal conservation bill	1936	Do.
Anti-poll tax bills (4)	1942	9 days.
	1944	4 days.
	1946	3 days.
	1948	5 days.
Fair employment practices bills (2)	1946	18 days.
	1950	12 days.
Slot machine bill	1950	11 hours.
Tidelands oil bill	1953	25 days.
Atomic energy bill, amendment	1954	12 days.
Civil rights bill	1957	23 days.
Do	1960	40 days.
Senate rules, adoption of	1961	3 days.
Literacy test for voting	1962	15 days.
Communications satellite bill	1962	21 days.
Amend Rule 22	1963	18 days.
Civil rights bill	1964	83 days.
Reapportionment amendment	1964	26 days.
Voting rights	1965	26 days.
	1965	9 days.
Right-to-work	1966	15 days.
Civil rights	1966	9 days.
District of Columbia home rule	1966	2 days.
Amend Rule 22	1967	8 days.
Campaign fund financing	1967	20 days.
Open housing	1968	34 days.
Fortas nomination	1968	6 days.
Amend Rule 22	1969	12 days.
Haynsworth nomination	1969	7 days.
Carswell nomination	1970	18 days.
Cooper-Church amendment	1970	34 days.
Abolishment of electoral college	1970	16 days.
Family assistance plan	1970	8 days.
Shoe-textile import quotas	1970	7 days.
Fund for supersonic transport	1970	7 days.
Amend Rule 22	1971	30 days.
Military draft extension	1971	32 days.

Measures delayed or defeated by filbusters [1]—Continued

Measures	Year	Length of debate
Lockheed loan	1971	9 days.
Rehnquist nomination	1971	5 days.
Equal job opportunities	1972	23 days.
U.S.-Soviet Arms Pact	1972	9 days.
Consumer Protection Agency	1972	10 days.
Anti-busing	1972	5 days.
Voter registration	1973	10 days.
Public financing of campaigns (amendment to Debt Ceiling Bill)	1973	4 days.
Rhodesian chrome	1973	8 days.
Legal services	1973-74	9 days.
Genocide Treaty	1974	4 days.
Government pay raise	1974	5 days.
Public financing of campaigns	1974	13 days.
Public debt ceiling	1974	10 days.
Consumer Protection Act	1974	17 days.
Export-Import Bank extension	1974	4 days.
Supplemental appropriations (school desegregation amendment)	1974	5 days.
Regional railroad reorganization	1975	3 days.
Amend Rule 22	1975	16 days.
Tax Reduction Act	1975	3 days.
Consumer Protection Act	1975	5 days.
Personal Senate committee staff	1975	4 days.
New Hampshire senatorial contest	1975	23 days.
Voting Rights Act	1975	3 days.
Oil price ceiling	1975	6 days.
Labor-HEW/busing amendments	1975	9 days.
Common site picketing	1975	10 days.
Rail services bill	1975	2 days.
New York aid bill	1975	3 days.
Rice production bill	1976	5 days.
Antitrust Act amendments	1976	14 days.
Civil rights attorneys' fees	1976	7 days.
Vietnam draft evader pardon resolution	1977	5 days.
Amend Rule 22	1977	4 days.
Campaign financing	1977	8 days.
Natural gas deregulation	1977	14 days.
Panama Canal treaties	1978	38 days.
Labor law reform	1978	17 days.
Tax reduction	1978	5 days.
Energy tax conference report	1978	2 days.
Windfall oil profits tax	1979	21 days.
Nomination of William Lubbers to be General Counsel, NLRB	1980	6 days.
Civil rights of institutionalized persons, conference report	1980	8 days.
Soft drink products	1980	4 days.
Draft registration	1980	8 days.
Nomination of Don Zimmerman to NLRB	1980	6 days.
Alaska lands	1980	12 days.
Vessel tonnage/surface mining	1980	5 days.
Fair Housing Amendments	1980	6 days.
Nomination of Stephen Breyer to be U.S. Circuit Court Judge	1980	4 days.
Department of Justice authorization/busing	1981-1982	21 days.
State, Justice, Commerce Appropriations	1981	8 days.
Broadcasting of Senate chamber proceedings	1982	12 days.
Criminal Code Reform Act of 1982	1982	2 days.
Urgent Supplemental Appropriations, 1982	1982	3 days.
Voting Rights Act extension	1982	7 days.
Temporary debt limit increase	1982	17 days.
Antitrust contributions	1982	3 days.
Surface Transportation Assistance Act	1982	5 days.
Surface Transportation Assistance Act, conference report	1982	2 days.
Emergency jobs appropriations, 1983 (included amendment on interest and dividend tax withholding)	1983	7 days.
International Trade and Investment Act (included amendment on interest and dividend tax withholding)	1983	6 days.
Omnibus Defense Authorization (MX missile production)	1983	13 days.
Radio Broadcasting to Cuba	1983	5 days.
Natural Gas Policy Act Amendments of 1983	1983	Do.
Capital Punishment	1984	Do.
Hydroelectric Power Plants	1984	4 days.
Nomination of J. Harvie Wilkinson, III, to be circuit judge	1984	5 days.
Budget Act Waiver, Agriculture Appropriations, 1985	1984	7 days.
Financial Services Competitive Equity Act	1984	6 days.

Measures delayed or defeated by filibusters [1]—Continued

Measures	Year	Length of debate
Broadcasting of Senate Proceedings	1984	4 days.
Surface Transportation and Uniform Relocation Assistance Act	1984	3 days.
Civil Rights Act of 1984 (as amendment to Continuing Appropriations, 1985).	1984	7 days.[2]

[1] This is an incomplete list, not including the many appropriation bills that have either been lost in the jam that resulted from filibusters or were talked to death because they failed to include items that particular Senators desired for the benefit of their States or because they made were considered excessive. Several successful filibusters have sought and achieved the enactment of legislation favored by the filibusters. Filibusters have succeeded not only in preventing the passage of legislation, but also in preventing the organization of the Senate, the election of its officers, and the confirmation of Presidential appointees. They have also succeeded in modifying the terms of legislation, in delaying adjournment of Congress; in forcing special sessions, the adoption of conference reports, of neutrality legislation, and of ship subsidy; in postponing consideration of legislation, and in raising the price of silver. Legislation has also been defeated or modified by the mere threat of a filibuster.

[2] Includes total number of days entire bill before the Senate.

NOTE.—Numerous appropriation bills. For a partial list of 82 such bills that failed from 1876 to 1916, see Congressional Record, June 28, 1916, pp. 10152-10153.

Later action on filibustered measures

Measures	Filibustered	Passed	Not passed (27)
Reconstruction of Louisiana	1865	1868	
Election laws	1879	1909 (repealed)	
Force bill	1890-91	1965	
River and harbor bills (3)	1901, 1903, 1914	At intervals	
Tristate bill	1903	1907, 1912	
Colombian Treaty	1903	1903 [1]	
Ship subsidy bills (2)	1907, 1922-23	1936	
Canadian reciprocity bill	1911	1911 [1]	
Arizona-New Mexico statehood	1911	1912 (admitted)	
Ship purchase bill	1915	1916	
Armed ship bill	1917		X
Mineral lands leasing bill	1919	1920	
Anti-Lynch bills (3)	1922, 1935, 1937-38		X
Migratory bird conservation bill	1926	1929	
Campaign investigation resolution	1927	1927 [1]	
Colorado River bills (2)	1927, 1928	1928 [1]	
Emergency officer retirement bill	1927	1928	
Washington public buildings bill	1927	1928	
Resolution to postpone national-origins provisions of immigration laws.	1929	1929	
Oil industry investigation	1931	1935	
Supplemental deficiency bill	1935	1936	
Prevailing wage amendment to work relief bill	1935	1936	
Flood control bill	1935	1936	
Coal conservation bill	1936	1937	
Anti-poll-tax bills (4)	1942, 1944, 1946, 1948.	1964	
FEPC bill	1946	1964	
Do	1950	1964	
Slot machine bill	1950	1950	
Tidelands oil bill	1953	1953	
Atomic Energy Act, amendment	1954	1954	
Civil rights bill	1957	1957	
Do	1960	1960	
Senate rules, adoption of	1961		X
Literacy test for voting	1962	1965, 1970	
Communications satellite bill	1962	1962	
Amend Rule 22	1963	1975	
Civil rights bill	1964	1964	
Reapportionment amendment	1964		X
Voting rights	1965	1965	
Right-to-work	1965, 1966		X
Civil rights (open housing)	1966	1968	
District of Columbia home rule	1966	1974	
Amend Rule 22	1967	1975	
Campaign fund financing	1967	1971	
Open housing	1968	1968	
Fortas nomination	1968		X

Later action on filibustered measures—Continued

Measures	Filibustered	Passed	Not passed (27)
Amend Rule 22	1969		X
Haynsworth nomination	1969		X
Carswell nomination	1970		X
Cooper-Church amendment	1970	1970	
Abolishment of electoral college	1970		X
Family assistance plan	1970		X
Shoe-textile import quotas	1970		X
Funds for supersonic transport	1970	1970	
Amend Rule 22	1971	1975	
Military draft extension	1971	1971	
Lockheed loan	1971	1971	
Rehnquist nomination	1971	1971	
Equal job opportunities	1972	1972	
U.S.-Soviet Arms Pact	1972	1972	
Consumer Protection Agency	1972, 1974	1975	
Anti-busing	1972, 1974		X
Voter registration	1973		X [2]
Public financing of campaigns	1973, 1974	1974	
Rhodesian chrome	1973		X
Legal services	1973-74	1974	
Genocide Treaty	1974		X
Government pay raise	1974	1974	
Public debt ceiling	1974	1974	
Export-Import Bank extension	1974	1974	
Regional railroad reorganization	1975	1975	
Amend Rule 22	1975	1975	
Tax Reduction Act	1975	1975	
Consumer Protection Act	1975	1975	
Personal Senate committee staff	1975	1975	
New Hampshire senatorial contest	1975		X
Voting Rights Act	1975	1975	
Oil price ceiling	1975	1975	
Labor HEW/busing amendments	1975	1975	
Common site picketing	1975	1975	
Rail services bill	1975	1975	
New York aid bill	1975	1975	
Rice Production Act	1976	1976	
Antitrust Act amendments	1976	1976	
Civil rights attorneys' fees	1976	1976	
Vietnam draft evader pardon	1977		X
Amend Rule 22	1977	1979	
Campaign financing	1977		X [3]
Natural gas deregulation	1977	1978	
Panama Canal treaties	1978	1978	
Labor law reform	1978		X
Tax reduction	1978	1978	
Energy tax conference report	1978	1978	
Windfall oil profits tax	1979	1979	
Nomination of William Lubbers to be General Counsel, NLRB	1980	1980	
Civil rights of institutionalized persons, conference report	1980	1980	
Soft drink products	1980	1980	
Draft registration	1980	1980	
Nomination of Don Zimmerman to NLRB	1980	1980	
Alaska lands	1980	1980	
Vessel tonnage/surface mining	1980	1980	
Fair Housing Amendments	1980		X
Ominbus Defense Authorization (MX missile production)	1983	1983	
Radio Broadcasting to Cuba	1983	1983	
Natural Gas Policy Act Amendments of 1983	1983		X
Capital Punishment	1984	1984	
Hydroelectric Power Plants	1984	1984	
Nomination of J. Harvie Wilkinson, III, to be circuit judge	1984	1984	
Budget Act Waiver, Agriculture Appropriations, 1985	1984	1984	
Financial Services Competitive Equity Act	1984	1984	
Broadcasting of Senate Proceedings	1984		X

Later action on filibustered measures—Continued

Measures	Filibustered	Passed	Not passed (27)
Surface Transportation and Uniform Relocation Assistance Act	1984	1985	
Civil Rights Act of 1984 (as amendment to Continuing Appropriations, 1985)	1984		X[4]
Nomination of Stephen Breyer to be U.S. Circuit Court Judge	1980	1980	
Department of Justice authorization/busing	1981-1982	1982	
State, Justice, Commerce Appropriations	1981		X
Broadcasting of Senate chamber proceedings	1982	1982	
Criminal Code Reform Act of 1982	1982		X
Urgent Supplemental Appropriations, 1982	1982	1982	
Voting Rights Act extension	1982	1982	
Temporary debt limit increase	1982	1982	
Antitrust contributions	1982		X
Surface Transportation Assistance Act	1982	1982	
Surface Transportation Assistance Act, conference report	1982	1982	
Emergency Jobs Appropriations (included amendment on interest and dividend tax withholding)	1983	1983	
International Trade and Investment Act (included amendment on interest and dividend tax withholding)	1983	1983	

[1] In special or subsequent sessions.

[2] Although the Voter Registration Act passed the Senate in 1973, it was denied a rule on the floor of the House and was not enacted into law.

[3] Although the campaign financing measure passed the Senate without provisions for public financing of congressional election campaigns, no subsequent action was taken on the bill by the House.

[4] Underlying appropriation bill passed.

Source: U.S. Congress, Senate, Committee on Rules and Administration. Limitation on debate in the Senate, hearings. 81st Cong., 1st sess. Washington, D.C., GPO, 42. Addenda compiled by the authors.

Senate votes on cloture [1] motions

Congress and date	Subject	Motion submitted by [4]	Yea votes needed	Yeas	Nays	For Cloture [5]			Against Cloture [5]			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
66th													
Nov. 15, 1919	Versailles Treaty [2]	Henry Lodge	63	78	16	37	41		11	5		58	8555-56
Feb. 2, 1921	Emergency tariff	Boise Penrose	48	36	35	27	9		7	28		60	2432
67th													
July 7, 1922	Tariff bill	Porter McCumber	54	45	35	45	0		5	30		62	10040
69th													
Jan. 25, 1926	World Court [3]	Irvine Lenroot	63	68	26	37	31		18	7	1, F-L	67	10392
June 1, 1926	Migratory birds	Peter Norbeck	53	46	33	36	10		8	24	1, F-L	67	2678-79
Feb. 15, 1927	Branch banking [3]	George Pepper	56	65	18	36	29		9	8	1, F-L	68	3824
Feb. 26, 1927	Disabled officers	Lawrence Tyson	58	51	36	27	24		19	16	1, F-L	68	4901
Do	Colorado River	Hiram Johnson	61	32	59	21	11		28	30	1, F-L	68	4900
Feb. 28, 1927	Prohibitions Bureau [3]	Wesley Jones	55	55	27	33	22		13	13	1, F-L	68	4986
Do	D.C. buildings	Irvine Lenroot	56	52	31	30	22		17	13	1, F-L	68	4985
72d													
Jan. 19, 1933	Banking Act	Joseph Robinson	59	58	30	25	33		19	10	1, F-L	76	2077
75th													
Jan. 27, 1938	Anti-lynching	Matthew Neely	59	37	51	2	35		13	37	1, F-L	83	1166
Feb. 16, 1938	do	Robert Wagner	59	42	46	3	38	1, P	10	34	1, F-L	83	2007
77th													
Nov. 23, 1942	Antipoll tax	Alben Barkley	52	37	41	14	21	1, P 1, I	10	31	1, P 1, I	88	9065
78th													
May 15, 1944	do	do	54	36	44	18	17	1, P	13	31		90	4470
79th													
Feb. 9, 1946	FEPC	do	56	48	36	25	22	1, P	8	28		92	1219
May 7, 1946	British loan	Joseph Ball	55	41	41	17	23	1, P	19	22		92	4539
May 25, 1946	Labor dispute	William Knowland	54	3	77	1	2		35	41	1, P	92	5714
July 31, 1946	Antipoll tax	Alben Barkley	48	39	33	15	23	1, P	7	26		92	10512
81st													
May 19, 1950	FEPC	Scott Lucas	64	52	32	33	19		6	26		96	7300
July 12, 1950	do	do	64	55	33	33	22		6	27		96	9982
83d													
July 26, 1954	Atomic Energy	William Knowland	64	44	42	40	4		4	38		100	11942

Senate votes on cloture [1] motions—Continued

Congress and date	Subject	Motion submitted by [4]	Yea votes needed	Yeas	Nays	For Cloture [5]			Against Cloture [5]			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
86th													
Mar. 10, 1960	Civil rights	Paul Douglas, Jacob Javits	64	42	53	12	30		20	33		106	5118
87th													
Sept. 19, 1961	Amend Rule 22	Mike Mansfield, Everett Dirksen	54	37	43	11	26		15	28		107	20147
May 9, 1962	Literacy tests	do	64	43	53	13	30		23	30		108	8058
May 14, 1962	do	do	63	42	52	11	31		22	30		108	8294
Aug. 14, 1962	Communication satellite [2]	Mike Mansfield	60	63	27	34	29		2	25		108	16431
88th													
Feb. 7, 1963	Amend Rule 22	do	64	54	42	18	36		15	27		109	2058
June 10, 1964	Civil rights [3]	do	67	71	29	27	44		6	23		110	13397
Sept. 10, 1964	Legislative reapportionment	Everett Dirksen	63	30	63	23	7		9	54		110	21896
89th													
May 25, 1965	Voting rights [3]	Philip Hart	67	70	30	23	47		9	21		111	11466
Oct. 11, 1965	Right-to-work	Mike Mansfield	62	45	47	5	40		26	21		111	26581
Feb. 8, 1966	do	do	66	51	48	6	45		26	22		112	2512
Feb. 10, 1966	do	do	66	50	49	6	44		26	23		112	2864
Sept. 14, 1966	Civil rights	do	64	54	42	12	42		21	21		112	22670
Sept. 19, 1966	do	do	62	52	41	10	42		20	21		112	23042
Oct. 10, 1966	D.C. home rule	do	52	41	37	10	31		15	22		112	24848
90th													
Jan. 24, 1967	Amend Rule 22	do	66	53	46	17	36		19	27		113	1336
Feb. 20, 1968	Open housing	do	62	55	37	18	37		18	19		114	3427
Feb. 26, 1968	do	do	62	56	36	19	37		17	19		114	4064
Mar. 1, 1968	do	Everett Dirksen	63	59	35	22	37		14	21		114	4845
Mar. 3, 1968	Open housing [3]	Mike Mansfield	65	65	32	24	41		12	20		114	4960
Oct. 1, 1968	Fortas nomination	do	59	45	43	10	35		25	19		114	28933
91st													
Jan. 16, 1969	Amend Rule 22 [3]	Frank Church	66	51	47	17	34		26	21		115	994
Jan. 28, 1969	do	do	62	50	42	21	29		21	21		115	1937
Sept. 17, 1970	Electoral college	Mike Mansfield	60	54	36	21	33		18	18		116	32357
Sept. 29, 1970	do	do	58	53	34	19	34		19	15		116	34034
Dec. 19, 1970	Supersonic transport funds	Hugh Scott	61	43	48	26	17		11	37		116	42712
Dec. 22, 1970	do	do	58	42	44	28	14		10	34		116	43176

92d														
Feb. 18, 1971	Amend Rule 22	Frank Church	57	48	37	21	27	0	17	18	1, C-R 1, I-D	117	3014
Feb. 23, 1971	do	do	58	50	36	20	30	0	17	17	1, C-R 1, I-D	117	3623
Mar. 2, 1971	do	do	56	48	36	21	27	0	19	15	1, C-R 1, I-D	117	4566
Mar. 9, 1971	do	do	63	55	39	24	31	0	19	18	1, C-R 1, I-D	117	5485
June 23, 1971	Military draft [2]	Mike Mansfield	62	65	27	35	29	1, C-R	5	21	1, I-D	117	21584
July 26, 1971	Lockheed loan	John Tower	60	42	47	29	13	0	12	33	1, C-R 1, I-D	117	27154
July 28, 1971	do	do	66	59	39	38	21	0	5	32	1, C-R 1, I-D	117	27585
July 30, 1971	do	do	60	53	37	38	15	0	4	31	1, C-R 1, I-D	117	28185
Sept. 21, 1971	Military draft [2]	John Stennis	61	61	30	38	21	1, C-R 1, I-D	4	26	0	117	32657
Dec. 10, 1971	Rehnquist nomination	Hugh Scott	63	52	42	36	15	1, C-R	35	6	1, I-D	117	46117
Feb. 1, 1972	EEOC	Harrison Williams	57	48	37	24	24	0	17	18	1, C-R 1, I-D	118	1972
Feb. 3, 1972	do	do	59	53	35	24	29	0	16	17	1, C-R 1, I-D	118	2494
Feb. 22, 1972	do [2]	do	63	73	21	32	40	1, C-R	8	12	1, I-D	118	4912
Sept. 14, 1972	U.S.-Soviet Arms Pact [2]	Mike Mansfield	61	76	15	39	35	1, C-R 1, I-D	0	15	0	118	30622
Sept. 29, 1972	Consumer Agency	Robert Byrd	51	47	29	15	32	0	16	11	1, C-R 1, I-D	118	32895
Oct. 3, 1972	do	Jacob Javits	58	55	32	20	35	0	18	12	1, C-R 1, I-D	118	33401
Oct. 5, 1972	do	Robert Byrd	55	52	30	20	32	0	17	11	1, C-R 1, I-D	118	33865
Oct. 10, 1972	chool busing	Mike Mansfield	55	45	37	24	19	1, C-R 1, I-D	12	25	0	118	34504
Oct. 12, 1972	do	do	59	49	39	25	22	1, C-R 1, I-D	26	13	10	118	34788
Oct. 12, 1972	do	do	58	49	38	26	21	1, C-R 1, I-D	12	26	0	118	35330
93d														
Apr. 30, 1973	Voter registration	James B. Allen	58	56	31	14	42	0	22	7	1, C-R 1, I-D	(8)	13546
May 3, 1973	do	Mike Mansfield	63	60	34	14	46	0	26	6	1, C-R 1, I-D	(8)	14095
May 9, 1973	do [2]	do	66	67	32	18	49	0	24	6	1, C-R 1, I-D	(8)	14868
Dec. 2, 1973	Campaign financing reform [5]	do	54	47	33	7	40	0	22	9	1, I-D 1, C-R	(8)	39084
Dec. 3, 1973	do	do	59	49	39	10	39	0	27	10	1, C-R 1, I-D	(8)	39167

Senate votes on cloture [1] motions—Continued

Congress and date	Subject	Motion submitted by [4]	Yea votes needed	Yeas	Nays	For Cloture*			Against Cloture*			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
Dec. 11, 1973	Rhodesian chrome	do	63	59	35	21	38	0	21	12	1, C-R 1, I-D	(8)	40708
Dec. 13, 1973	do	do	64	62	33	23	39	0	18	13	1, C-R 1, I-D	(8)	
Do	Legal services	do	64	60	36	20	40	0	21	13	1, C-R 1, I-D	(8)	41464
Dec. 14, 1973	do	Robert Taft, Jr	57	56	29	18	38	0	16	11	1, C-R 1, I-D	(8)	41635
Dec. 18, 1973	Rhodesian chrome [2]	Mike Mansfield	60	63	26	25	38	0	14	10	1, C-R 1, I-D	(8)	42113
Jan. 30, 1974	Legal services [2]	Robert Taft, Jr	65	68	29	24	44	0	16	12	1, I-D	(8)	1382
Feb. 5, 1974	Genocide treaty	Frank Church	61	55	36	18	37	0	21	13	1, C-R 1, I-D	(8)	2187
Feb. 6, 1974	do	do	62	55	38	18	37	0	22	14	1, C-R 1, I-D	(8)	2339
Mar. 6, 1974	Government pay raise [2]	Mike Mansfield	66	67	31	21	45	1, I-D	19	11	1, C-R	(8)	5492
Apr. 4, 1974	Campaign financing	do	64	60	36	18	42	0	22	12	1, C-R 1, I-D	(8)	9781
Apr. 9, 1974	do [7]	do	63	64	30	20	44	0	19	9	1, C-R 1, I-D	(8)	10954
June 19, 1974	Public debt ceiling [6]	do	62	50	43	9	41	0	27	14	1, C-R 1, I-D	(8)	20105
Do	do	Wallace Bennett	62	45	48	31	13	1, C-R	5	42	1, I-D	(8)	20105
June 26, 1974	do [7]	Mike Mansfield	66	48	50	11	37	0	29	19	1, C-R 1, I-D	(8)	21195
July 30, 1974	Consumer Protection Act.	Abraham Ribicoff	66	56	42	14	42	0	25	15	1, C-R 1, I-D	(8)	25876
Aug. 1, 1974	do	do	66	59	38	15	44	0	24	13	1, C-R 1, I-D	(8)	26327
Aug. 20, 1974	do	do	63	59	35	17	42	0	21	12	1, C-R 1, I-D	(8)	29163
Sept. 19, 1974	do	do	66	64	34	20	44	0	21	11	1, C-R 1, I-D	(8)	31904
Dec. 3, 1974	Export-Import Bank	Robert Packwood	60	51	39	24	27	0	14	23	1, C-R 1, I-D	(8)	37819
Dec. 4, 1974	do	do	62	48	44	24	24	0	15	27	1, C-R 1, I-D	(8)	38070
Dec. 13, 1974	Trade reform [2]	Robert C. Byrd	60	71	19	33	36	1, C-R 1, I-D	4	15	0	(8)	39768

Dec. 14, 1974	Supplemental appropriations [2] (school desegregation amendment)	Hugh Scott	56	56	27	21	35	0	14	12	1, C-R	(8)	39904
Do	Export-Import Bank	Robert C. Byrd	56	49	35	26	10	1, C-R	10	25	0	(8)	39909
Dec. 10, 1974	do	do	59	54	34	30	22	1, C-R 1, I-D	6	28	0	(8)	40058
Dec. 17, 1974	Social services [2]	Russell B. Long	62	70	23	29	41	0	11	10	1, C-R 1, I-D	(8)	40330
Do	Upholstery import regulations/Taxes and tariff. [2]	do	62	67	25	28	39	0	12	11	1, C-R 1, I-D	(8)	40358
94th													
Feb. 26, 1975	Regional railroad reorganization. [2]	Robert C. Byrd	63	86	8	32	52	1, I-D 1, C-R	2	6		(8)	4362
Mar. 5, 1975	Cloture reform [2]	do	63	73	21	23	50		13	6	1, I-D 1, C-R	(8)	5251
Mar. 7, 1975	do [2]	do	63	73	21	23	50		13	6	1, I-D 1, C-R 1, C-R	(8)	5612
Mar. 20, 1975	Tax reduction	Ernest Hollings	60	59	38	14	45		22	14	1, I-D 1, C-R	(8)	7755
Mar. 21, 1975	do [2]	do	60	83	13	27	55	1, C-R	6	6	1, I-D	(8)	8020
May 13, 1975	Consumer Protection Agency [2]	Abraham Ribicoff	60	71	27	20	51		18	7	1, I-D 1, C-R	(8)	14055
June 11, 1975	Personal Senate committee staff. [2]	Robert Packwood	64	77	19	28	48	1, C-R	6	12	1, I-D	(8)	18381
June 24, 1975	New Hampshire Senate contest.	Robert C. Byrd	60	57	39		56	1, I-D	34	4	1, C-R	(8)	20531
June 25, 1975	do	do	60	56	41		55	1, I-D	36	4	1, C-R	(8)	20720
June 26, 1975	do	do	60	54	40		53	1, I-D	36	4		(8)	21045
July 8, 1975	do	do	60	57	38		56	1, I-D	34	3	1, C-D	(8)	21433
July 9, 1975	do	do	60	57	38		56	1, I-D	36	2		(8)	21815
July 10, 1975	do	do	60	54	38		53	1, I-D	34	3	1, C-R	(8)	22177
July 21, 1975	Voting Rights Act [2]	do	60	72	19	24	48		11	6	1, I-D	(8)	23738
July 23, 1975	do	Mike Mansfield	60	76	20	27	49		10	8	1, I-D 1, C-R	(8)	24211
July 30, 1975	Oil price ceiling	Robert C. Byrd	60	54	38	10	44		24	13	1, I-D	(8)	26004
Sept. 23, 1975	Labor-HEW/busing	Edward Brooke	60	46	48	16	30		19	27	1, C-R 1, I-D	(8)	29812
Sept. 24, 1975	do [2]	Robert C. Byrd	60	64	33	17	47		19	12	1, C-R 1, I-D		30045
Nov. 11, 1975	Common-site picketing. [2]	Mike Mansfield	60	66	30	17	48	1, C-R	19	11		(8)	35916
Nov. 14, 1975	do	Robert C. Byrd	60	58	31	14	44		15	14	1, C-R 1, I-D	(8)	36748
Nov. 18, 1975	do [2]	Mike Mansfield	60	62	37	15	47		21	14	1, C-R 1, I-D	(8)	37196
Dec. 4, 1975	Railroad reorganization. [2]	Vance Hartke	60	61	27	19	42		14	11	1, C-R 1, I-D	(8)	38441
Dec. 5, 1975	New York aid [2]	Mike Mansfield	60	70	27	21	48	1, C-R	15	11	1, I-D	(8)	38785

Senate votes on cloture [1] motions—Continued

Congress and date	Subject	Motion submitted by [4]	Yea votes needed	Yeas	Nays	For Cloture*			Against Cloture*			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
Feb. 3, 1976	Rice production.[2]	Walter Huddleston	60	70	19	28	42		19	11	1, I-D 1, C-R	(8)	2123
June 3, 1976	Antitrust bill [2]	Robert C. Byrd	60	67	22	15	52		15	5	1, I-D 1, C-R	(8)	16472
Aug. 31, 1976	do [2]	Mike Mansfield	60	63	27	14	49		18	7	1, I-D 1, C-R	(8)	28573
Sept. 23, 1976	Civil rights attorney's fees.[2]	Robert C. Byrd	60	63	26	18	45		14	10	1, I-D 1, C-R	(8)	32172
95th													
Jan. 24, 1977	Vietnam draft evader pardon.	Jesse Helms	60	53	43	27	25	1, I-D	9	34		(8)	1934
July 29, 1977	Campaign financing	Robert C. Byrd	60	49	45	2	47		33	11	1, I-D	(8)	25700
Aug. 1, 1977	do	do	60	47	46	2	45		35	10	1, I-D	(8)	25816
Aug. 2, 1977	do	do	60	52	46	4	48		33	12	1, I-D	(8)	26022
Sept. 26, 1977	Natural gas deregulations.[2]	Robert C. Byrd/ Howard H. Baker, Jr.	60	77	17	34	42	1, I-D	1	16		(8)	30750
June 7, 1978	Labor law reform	Robert C. Byrd	60	42	47	8	34		28	18	1, I-D	(8)	16512
June 8, 1978	do	do	60	49	41	8	41		26	14	1, I-D	(8)	16839
June 13, 1978	do	do	60	54	43	10	44		25	17	1, I-D	(8)	17450
June 14, 1978	do	do	60	58	41	14	44		24	16	1, I-D	(8)	17568
June 15, 1978	do	do	60	58	39	14	44		22	16	1, I-D	(8)	17749
June 22, 1978	do	do	60	53	45	12	41		25	19	1, I-D	(8)	18398
Oct. 9, 1978	Tax reduction [2]	do	60	62	28	30	31	1, I-D	3	25		(8)	18398
Oct. 14, 1978	Energy tax conference report.[2]	do	60	71	13	20	51		10	2	1, I-D	(8)	37384
96th													
Dec. 12, 1979	Windfall profits tax	do	60	53	46	5	48		36	9	1, I-D	125	35597
Dec. 13, 1979	do	do	60	56	40	5	50	1, I-D	34	6		125	35912
Dec. 14, 1979	do	do	60	56	39	4	51	1, I-D	35	4		125	36025
Dec. 17, 1979	do	do	60	84	14	28	55	1, I-D	12	2		125	36441-36442
April 21, 1980	Nomination of William Lubbers to be general counsel, NLRB.	do	60	46	40	8	38		29	10	1, I-D	126	8445
April 22, 1980	do	do	60	62	34	10	51	1, I-D	29	5		126	8510
April 28, 1980	Rights of institutionalized persons.	Birch Bayh	60	44	39	11	33		25	13	1, I-D	126	9176
April 29, 1980	do	Dennis DeConcini	60	56	34	15	41		22	11	1, I-D	126	9229
April 30, 1980	do	Robert C. Byrd	60	53	35	14	39		22	12	1, I-D	126	9384

May 1, 1980	do	do	60	60	34	13	47		25	8	1, I-D	126	9585
May 15, 1980	Soft drink products	do	60	86	6	35	51		3	2	1, I-D	126	11336
June 10, 1980	Draft registration	do	60	62	32	22	39	1, I-D	18	14		126	13864
Aug. 1, 1980	Nomination of Don Zimmerman to be a member of NLRB.	do	60	51	35	10	41		27	7	1, I-D	126	20998
Aug. 4, 1980	do	do	60	45	31	10	35		23	7	1, I-D	126	21185
Aug. 5, 1980	do	do	60	63	31	15	48		23	7	1, I-D	126	21305
Aug. 18, 1980	Alaska lands	do	60	63	25	22	41		15	9	1, I-D	126	21583
Aug. 21, 1980	Vessel tonnage/ surface mining.	do	60	61	32	26	34	1, I-D	15	17		126	22469
Dec. 3, 1980	Fair Housing amendments.	do	60	51	39	13	38		26	13		126	31699
Dec. 4, 1980	do	do	60	62	32	13	49		26	5	1, I-D	126	32336
Dec. 9, 1980	do	do	60	54	43	9	45		31	11	1, I-D	* 126	15873
Do	Nomination of Stephen Breyer to be U.S. Circuit Court Judge.	Edward M. Kennedy	60	68	28	16	52		24	3	1, I-D	* 126	15873
97th													
July 10, 1981	Dept. of Justice authorization/ busing.	Howard Baker	60	38	48	34	4		14	34		* 127	7468
July 13, 1981	do	Bennett Johnston	60	54	32	32	22		15	17		* 127	7523
July 29, 1981	do	do	60	59	37	35	23	1, I-D	17	20		* 127	8746
Sept. 10, 1981	do	Robert Byrd for Bennett Johnston.	60	57	33	35	21	1, I-D	15	18		* 127	9397
Sept. 16, 1981	do	do	60	61	36	36	24	1, I-D	16	20		* 127	9719
Dec. 10, 1981	do	Jesse Helms	60	64	35	38	25	1, I-D	14	21		* 127	14951-14952
Dec. 11, 1981	State, Justice, Commerce appropriations.	do	60	59	35	36	22	1, I-D	15	20		* 127	15071
Feb. 2, 1982	Dept. of Justice authorization/ busing (S. 951).	Bennett Johnston	60	63	33	36	26	1, I-D	15	18		* 128	602-603
April 20, 1982	Broadcasting of Senate Chamber proceedings.	Howard Baker	60	47	51	37	10		16	34	1, I-D	* 128	3691
April 27, 1982	Criminal Code Reform Act of 1982.	Ted Stevens for Strom Thurmond.	60	45	46	30	14	1, I-D	18	28		* 128	4005
May 27, 1982	Urgent Supplemental Appropriations, 1982.	Howard Baker	60	95	2	49	45	1, I-D	2	0		* 128	6278
June 15, 1982	Voting Rights Act extensions.	do	60	86	8	46	40		6	1	1, I-D	* 128	6783
Sept. 9, 1982	Temporary debt limit increase/ abortion.	do	60	41	47	27	18		14	28	1, I-D	* 128	11230-11231

Senate votes on cloture [1] motions—Continued

Congress and date	Subject	Motion submitted by [6]	Yea votes needed	Yeas	Nays	For Cloture [5]			Against Cloture [5]			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
Sept. 13, 1982	do	do	60	45	35	33	12		14	20	1, I-D	[8] 128	11357
Sept. 15, 1982	do	do	60	50	44	34	15	1, I-D	19	25		[8] 128	11575
Sept. 20, 1982	Temporary debt limit increase/ school prayer.	Jesse Helms	60	50	39	34	15	1, I-D	14	25		[8] 128	11805
Sept. 21, 1982	do	Howard Baker	60	53	47	35	17	1, I-D	19	28		[8] 128	11890
Sept. 22, 1982	do	do	60	54	46	35	18	1, I-D	19	27		[8] 128	11961
Sept. 23, 1982	do	do	60	53	45	35	17	1, I-D	19	26		[8] 128	12020
Dec. 2, 1982	Antitrust contributions.	Ted Stevens	60	38	58	25	13		27	30	1, I-D	[8] 128	13768
Do	do	do	60	44	51	31	12	1, I-D	21	30		[8] 128	13768
Dec. 13, 1982	Surface Transportation Assistance Act.	Howard Baker	60	75	13	43	31	1, I-D	6	7		[8] 128	14424
Dec. 16, 1982	do	do	60	48	50	41	6	1, I-D	12	38		[8] 128	14947-14948
Do	do	do	60	5	93	1	4		52	40	1, I-D	[8] 128	14948
Dec. 19, 1982	do	do	60	89	5	48	40	1, I-D	4	1		[8] 128	15591
Dec. 20, 1982	do	do	60	87	8	45	41	1, I-D	6	2		[8] 128	15721
Dec. 23, 1982	do	do	60	81	5	47	33	1, I-D	3	2		[8] 128	16046-16047
98th													
March 16, 1983	Emergency jobs appropriations.	Robert Dole	60	50	48	30	30		24	24		[8] 128	2996
Do	Emergency jobs appropriations, amendment on interest and dividend tax withholding.	Robert Kasten	60	59	39	24	35		29	10		[8] 128	2996
April 19, 1983	do	do	60	34	53	3	42		31	11		[8] 128	4844
April 20, 1984	do	do	60	39	59	2	37		51	8		[8] 128	4958
July 21, 1983	Omnibus Defense Authorization (MX Missile production).	Howard Baker	60	55	41	49	6		2	39		[8] 129	10538
Aug. 3, 1983	Radio Broadcasting to Cuba.	do	60	62	33	41	21		10	23		[8] 129	11428
Nov. 3, 1983	Natural Gas Policy Act Amendments.	do	60	86	7	50	36		2	5		[8] 129	15306
Feb. 9, 1984	Capital Punishment	do	60	65	26	43	22		8	18		[8] 130	1219
July 30, 1984	Hydroelectric Power Plants.	do	60	60	28	40	20		9	19		[8] 139	9448-9449

July 31, 1984	Nomination of J. Harvie Wilkinson, III, to be a circuit judge.	do	60	57	39	51	6		4	35		[8] 130	9511
Aug. 6, 1984	Budget Act Waiver, agriculture appropriations.	do	60	54	31	46	8		3	28		[8] 130	9749
Aug. 8, 1984	do	do	60	68	30	54	14		0	30		[8] 130	9911
Aug. 9, 1984	Nomination of J. Harvie Wilkinson, III, to be a circuit judge.	do	60	65	32	54	11		1	31		[8] 130	10211
Sept. 10, 1984	Financial Services Competitive Equity Act.	Jake Garn	60	89	3	50	39		2	1		[8] 130	10898
Sept. 13, 1984	do	Howard Baker	60	92	6	48	44		5	1		[8] 130	11109
Sept. 18, 1984	Broadcasting of Senate Proceedings.	do	60	73	26	44	29		11	15		[8] 130	11403
Sept. 21, 1984	do	do	60	37	44	31	6		15	29		[8] 130	11675
Sept. 24, 1984	Surface Transportation and Uniform Relocation Assistance Act.	do	60	70	12	36	34		11	1		[8] 130	11742
Sept. 29, 1984	Continuing Appropriations, Civil Rights Act of 1984.	Robert C. Byrd	60	92	4	49	43		4	0		[8] 130	12413

[1] Many cloture petitions have also been withdrawn or held out of order since 1917.
[2] Indicates that cloture was invoked.
[3] The Chair ruled that a majority could invoke on any change in the rules of the Senate at the beginning of a Congress. On appeal the Chair was overruled 45 to 53 (Congressional Record, vol. 115: Jan. 16, 1969, p. 995).
[4] Does not necessarily indicate support of cloture.
[5] As an amendment to the Debt Ceiling Bill.
[6] On amendment proposed by Senator James B. Allen.
[7] On amendment proposed by Senator Hubert Humphrey.
[8] Daily edition.

*Party codes: C-R—Conservation-Republican; I-D—Independent-Democrat; P—Progressive; I—Independent; and F-L—Farmer-Labor.

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Again the filibusteros. New York times magazine, Mar. 1, 1964: 20–21.

Presents views of past filibusters and considers the potential for a filibuster of civil rights legislation.

Barkley, Alben W. Original intent of cloture petition: precedents cited do not apply. Vital speeches v. 15, Mar. 15, 1949: 324–327.

In this speech, delivered in the United States Senate, Mar. 10, 1949, the Vice President traces precedents from Senate procedure for the use of cloture.

Beeman, Richard R. Unlimited debate in the Senate: the first phase. Political science quarterly, v. 83, Sept. 1968: 418–434.

"An examination of the Senate's early efforts to agree on guidelines for conduct during debate provides some insight into the upper chamber's traditional reluctance to silence its members and demonstrates the haphazard way in which legislative precedents were established."

Bendiner, Robert. Battle of filibuster: new round opens. New York times magazine, Sept. 14, 1952: 17, 26, 28.

"Foes of unlimited Senate debate center their attack on Rule XXII, which preserves cloture."

Burdette, Franklin L. Filibustering in the Senate. Princeton, Princeton University Press, 1940. Reprint. New York, Russell & Russell, 1965. 252 p.

Presents a history of Senate filibustering and parliamentary devices utilized for restraint of the practice, and surveys arguments for and against the "Senatorial privilege of virtually unlimited debate."

Carlisle, Margo. Changing the rules of the game in the U.S. Senate. Policy review, no. 7, winter 1979: 79–92.

"Argues in favor of filibusters, pointing out that 'they generally result in the kind of compromise typical of the Senate'; they are 'intrinsic to the large state/small state balance fundamental to the Senate'; and they ultimately signal to the American people that an important issue is under discussion, giving them a chance to be heard."

Chamberlain, Joseph P. Legislative process: national and State. New York, Appleton-Century, 1936. 369 p.

Subsections of the chapter, Action in Congress, consider cloture. These subsections are entitled, Senate Freedom of Debate and Amendment, and Instances of Obstruction in the Senate.

Clark, Joseph S. With all deliberate delay; some thoughts on streamlining the Senate. New republic, v. 180, Apr. 18, 1964: 13–15.

Pennsylvania Senator argues that "it is practically impossible to pass any legislation to which . . . [any] small group of deter-

mined Senators seriously objects unless it is done early in the session."

Cloture in the U.S. Senate. Congressional digest, v. 5, Nov. 1926: 291-317, 320.

Cloture, continuing rules and the Constitution. Minnesota law review, v. 48, Apr. 1964: 913-928.

Comment "concludes that cloture by consensus or majority rule is simply a matter of Senate choice; that since the Constitution requires neither, the Senate is free to make that choice; but that one Senate cannot bind succeeding Senates to its choice—a continuing Senate rule which limits the revision of the rules is void."

Cooper, Ann. The Senate and the filibuster: war of nerves—and hardball. Congressional quarterly weekly report, v. 36, Sept. 2, 1978: 2307-2307-2310.

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Damon, Allan L. Filibuster. American heritage, v. 27, Dec. 1975: 11-15, 97.

Traces use of the filibuster from 1790 to 1970 and observes that it is "protected by custom and the formal rules of Senate procedure . . . seen by some as the ultimate expression of free speech and by others as a capricious assault on democratic rule."

Davidson, Roger H., David Kovenock, and Michael K. O'Leary. Congress in crisis: politics and congressional reform. Belmont, Calif., Wadsworth Pub. Co., 1966. 208 p. (New frontiers in American politics series).

The chapter entitled, The 89th Congress and Reform, includes a section on cloture, The Senate: an Old Order Passes (p. 148-151).

Donnelly, Thomas C. Freedom of speech in the Senate: a restatement of the case in light of contemporary events. Social science, v. 7, July 1932: 225-236.

Outlines the values of unlimited debate in the Senate and concludes that they "appear to . . . outweigh any benefits that might come from majority cloture."

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"A filibuster . . . [is] a method of preventing the majority from making its decisions effective. Hence it is a form of minority rule," the Illinois Senator concludes.

Drew, Elizabeth B. Politics of cloture. Reporter, v. 31, July 16, 1964: 19-23.

Fact sheet: will the Senate change rule 22? Congressional quarterly weekly report, v. 17, Jan. 2, 1959: 13-20.

Congressional Quarterly analyzes the probability of changes in rule XXII. Included are historical information, arguments for and against rule XXII, previous votes on rules changes by Senators, and the Nixon opinion on the right of a new Senate to alter rules by majority vote.

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A Congressional Quarterly analysis of this issue including discussion of the 1949 change and arguments for and against unlimited debate.

Filibusters: they date back to first Congress of the United States. Business week, Mar. 12, 1949: 22-24.

Discusses the history and politics of the filibuster and considers implications for business if President Truman's proposals are tied up in the Senate during a filibuster of civil rights proposals.

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Vermont Senator evaluates three principal charges made against the Senate; responsibility, "he argues, rests outside as well as within."

Foley, Michael. The new Senate: liberal influence on a conservative institution 1954-1972. New Haven, Yale University Press, c1980. 342 p.

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Froman, Lewis A., Jr. The congressional process: strategies, rules, and procedures. Boston, Little, Brown, 1967. 221 p. (The study of Congress series)

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Gerber, Lou. The Senate filibuster: essential shield or parliamentary fossil? In Remarks of Edward M. Kennedy. Congressional record, v. 125, Feb. 26, 1979: 3230-3232.

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Morgan, Donald G. Congress and the Constitution. Cambridge, Belknap Press of Harvard University Press, 1966. 490 p.

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Includes an historical sketch of the Senate, discussion of differences in the Senate and House, discussion of efforts to limit debate, and a pro-con debate on retention of present Senate rule to limit debate.

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"A discussion of cloture, how it works, and proposals to change it."

Groups seeking cloture rule by majority Senate vote. Congressional Quarterly Log for Editors, v. 7, March 4, 1949: 269-270.

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Limitation of debate: S. Res. 15. Congressional Quarterly Alamanc, v. 5, 1949. 583-588.

A review of the 1949 rules change on invoking cloture.

Filibuster fight? New round in old battle. Congressional Quarterly Weekly Report, v. 11, January 2, 1953: 11-12.

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Senate rules change attempt fails; 70-21 roll call blocks maneuver aimed at curbing filibusters. Congressional Quarterly Weekly Report, 1, 11, January 9, 1953: 43-44.

Of particular interest in the debate was whether the Senate is a continuing body or not.

Senate, house vote on rules. Congressional Quarterly Almanac, v. 9, 1953: 313-314.

A review of an abortive effort to change rule 22.

The tidelands debate: filibuster charged. Congressional Quarterly Almanac v. 9, 1953: 393-394.

Opponents of the Submerged Lands Act (P.L. 83-91) are charged with filibuster tactics. Senator Morse made a 22-hour, 26-minute speech in opposition, to that time the longest in the history of the Senate.

The Atomic Energy Act of 1954. Congressional Quarterly Almanac, v. 10, 1954: 540-541.

A liberal filibuster against certain aspects of this controversial measure.

Senate rules challenged. Congressional Quarterly Weekly Report, v. 15, January 4, 1957: 29.

A coalition of Democrats and Republicans attempt once more to change rule 22.

Senate keeps old rules by tabling motion to change them. Congressional Quarterly Weekly Report, v. 15, January 11, 1957: 38-39; vote, p. 40. Of major significance was Vice-President Nixon's opinion [reprinted here] that a majority of Senators can change the rules at the beginning of a new Congress. The Senate, he noted, was the final judge in this matter.

Fact sheet on filibusters; history, techniques of Senate filibusters. Congressional Quarterly Weekly Report, v. 15: April 19, 1957: 489-491. Also: Congressional Quarterly Almanac, v. 13, 1957: 570-572. A discussion of filibustering with examples of famous ones.

26 Senators hold cloture balance of power, Congressional Quarterly Weekly Report, v. 15, July 26, 1957: 881-884.

An analysis of probable cloture vote on a pending civil rights bill, including record votes on previous cloture resolutions (see p. 1182 for correction on p. 884.). It did not prove necessary to invoke cloture in order to pass the bill.

Thurmond's filibuster record. Congressional Quarterly Weekly Report, v. 15, August 30, 1957: 1057.

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Civil rights act: filibuster by Strom Thurmond. Congressional Quarterly Almanac, v. 13, 1957: 563, 569.

Filibuster study. Congressional Quarterly Weekly Report, v. 16, January 24, 1958: 122.

Report of a special subcommitee of the Rules and Administration Committee reported out, urging that the cloture rule be modified.

Senate cloture rule. Congressional Quarterly Weekly Report, v. 16, March 28, 1958: 377.

Senate Rules and Administration Committee reported S. Res. 17, to amend rule 22 to provide for easier invoking of cloture.

Election to strengthen Senate anti-filibuster forces. Congressional Quarterly Weekly Report, v. 16, October 17, 1958: 1316-1319.

Congressional Quarterly speculates on the possible effect of 1958 elections on rules changes in 1959; a summary of 1957 attempt to modify rule 22 is provided.

Fact Sheet: will the Senate change rule 22? Congressional Quarterly Weekly Report, v. 17, January 2, 1959: 13-20.

Congressional Quarterly analyzes once more the probability of changes in rule 22. Included are historical information, arguments for and against rule 22, previous votes on rules changes by Senators, and the Nixon opinion on the right of a new Senate to alter rules by majority vote.

Senate debates rules. Congressional Quarterly Weekly Report, v. 17, January 9, 1959: 45, 60.

Senate rules change. Congressional Quarterly Weekly Report, v. 17, January 16, 1959: 69-71.

An analysis of the Senate's adoption of the cloture rule which prevailed prior to the 1949 modification. Retained in the new version was the applicability of cloture to any measure, including the changes, which resulted from the 1949 rule.

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Statistics on Senate debate [of civil rights act of 1960]. Congressional Quarterly Weekly Report, v. 18, April 15, 1960: 629.

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Senate rules. Congressional Quarterly Weekly Report, v. 19, January 6, 1961: 3–4.

Liberal Senators take aim on rule 22; yet another attempt to alter the cloture rule.

Senate sidetracks anti-filibuster dispute, 50–46. Congressional Quarterly Weekly Report, v. 19, January 13, 1961: 31, 59.

Resolutions to change rule 22 referred to Rules and Administration Committee, ending another modification attempt.

Senate rules. Congressional Quarterly Weekly Report, v. 19, September 22, 1961: 1613, 1637.

Filibuster rule change. Congressional Quarterly Almanac, v. 7, 1961: 90, 408, 564, 608; see also, 182, 243, 467, 944.

Senate begins debate in literacy test bill. Congressional Quarterly Weekly Report, v. 20, April 27, 1962: 659–662.

Senate prepares for cloture vote on literacy test bill. Congressional Quarterly Weekly Report, v. 20, May 4, 1962: 751.

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Analysis of Senate's last five cloture votes. Congressional Quarterly Weekly Report, v. 20 August 17, 1962: 1358–1359.

Cloture votes on civil rights bills, 1960; rule 22 change, 1961; literacy tests. 1962; and communications satellite act, 1962.

Filibusters and cloture. Congressional Quarterly Almanac, v. 18 1962: 376–79, 553–556, 657, 675.

Senate filibuster rule. Congressional Quarterly Weekly Report, v. 21, January 4, 1963: 11–12.

The liberals prepare again to attempt modification of rule 22.

Discussion of proposed rule 22 revision. Congressional Quarterly Weekly Report, v. 21, January 11, 1963: 33–34.

Senate opens debate on curbing filibusters. Congressional Quarterly Weekly Report, v. 21, January 18, 1963: 73.

Senate rules debate. Congressional Quarterly Weekly Report, v. 21, January 25, 1963: 77.

Liberals lose key test in Senate rules fight, Congressional Quarterly Weekly Report, v. 21 February 1, 1963; 109, 137.

Liberal attempt to claim constitutional prerogative to end debate on rules changes at beginning of new Congress by majority vote defeated when motion to that effect tabled.

Senate lays aside rules changes after cloture fails. Congressional Quarterly Weekly Report, v. 21. February 8, 1963: 139, 175.

Senate rules aftermath. Congressional Quarterly Weekly Report, v. 21 February 15, 1963: 192.

Vice President Johnson criticized for failure to rule on contention that constitution permits ending of debate on rules changes by majority vote at beginning of new Congress.

Procedures crucial in expected civil rights filibuster. Congressional Quarterly Weekly Report, v. 22, February 21, 1964: 355–357.

Filibuster rule change. Congressional Quarterly Almanac, v. 19, 1963: 373–376, 656.

Civil rights debate. Congressional Quarterly Weekly Report v. 22, May 1, 1964: 863–864.

Dirksen influence the key to successful cloture vote. Congressional Quarterly Weekly Report, v. 22, May 15, 1964: 947–950.

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Senate leaders schedule civil rights cloture vote. Congressional Quarterly Weekly Report, v. 22, June 5, 1964: 1077.

Cloture on civil rights breaks 26-year precedent. Congressional Quarterly Weekly Report, v. 22, June 12, 1964: 1169–1172, 1195.

Senate rejects cloture on reappointment rider. Congressional Quarterly Weekly Review, v. 22, September 11, 1964: 2123–2124, 2157.

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A new Congress brings about another attempt to change rule 22.

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Rules and Administration Committee adversely reports (5–4) resolutions to modify cloture rule.

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Senate passes voting rights bill, 77–19. Congressional Quarterly Weekly Report, v. 23, May 28, 1965: 1007–1009, 1042.

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PART 2

LEGISLATIVE HISTORY OF PARAGRAPH 2 OF RULE XXII OF THE STANDING RULES OF THE UNITED STATES SENATE (CLOTURE RULE)

THE MARTIN RESOLUTION

The cloture rule was adopted during a period of national emergency, shortly before war on Germany was declared. In 1915 a shipping bill had been defeated in the Senate as the result of a filibuster, and on March 4, 1917, the 64th Congress adjourned having failed to pass a bill authorizing the arming of merchant vessels. Referring to the defeat of this latter bill President Wilson made the following statement:

"It would not cure the difficulty to call the 65th Congress in extraordinary session.

"The paralysis of the Senate would remain. The purpose and the spirit of action are not lacking now.

"The Congress is more definitely united in thought and purpose at this moment, I venture to say, than it has been within the memory of any man now in its membership. There is not only the most united patriotic purpose, but the objects Members have in view are perfectly clear and definite.

"But the Senate cannot act unless its leaders can obtain unanimous consent. Its majority is powerless, helpless. In the midst of a crisis of extraordinary peril, when only definite and decided action can make the Nation safe or shield it from war itself by the agression of others, action is impossible.

"RULES SHOULD BE ALTERED

"Although as a matter of fact, the Nation and the representatives of the Nation stand back of the Executive with unprecedented unanimity and spirit, the impression made abroad will, of course, be that it is not so, and that other governments may act as they please without fear that this Government can do anything at all. We cannot explain. The explanation is incredible.

"The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action.

"A little group of willful men, representing no opinion but their own, have rendered the great Government of the United States helpless and contemptible.

"The remedy? There is but one remedy. The only remedy is that the rules of the Senate shall be so altered that it can act. The country can be relied upon to draw the moral" (55 Congressional Record 20).

Soon after the Senate met in special session on March 5, 1917, the question of amending the rules of the Senate so that debate could be closed was considered at conferences of the majority and the minority. A joint committee of five Senators from each conference was selected to prepare the necessary resolution which was presented to the Senate on March 8, 1917, by the majority leader, Senator Martin of Virginia, who obtained unanimous consent for

its immediate consideration. The Martin resolution (S. Res. 5) reads as follows: [1]

"*Resolved*, That the Senate shall, from and after its adoption, enforce the following rule, which is hereby adopted:

" 'If at any time a motion, signed by 16 Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present the Presiding Officer shall, without debate, submit to the Senate by an aye-and-nay vote the question:

" ' "Is it the sense of the Senate that the debate shall be brought to a close?"

" 'And if that question shall be decided in the affirmative by a two-thirds vote of those voting, then said measure shall be the unfinished business to the exclusion of all other business until disposed of.

" 'Thereafter no Senator shall be entitled to speak in all more than one hour on the pending measure, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.' "

Following some debate on the Martin resolution a rollcall on final passage showed that 76 Senators voted for its adoption, 3 were against, and announcements were made that 12 other Senators who were absent would have voted for its adoption if present (55 Congressional Record 45). Senators Gronna, La Follette, and Sherman voted against the resolution. During the debate Senator La Follette expressed his opposition to the measure as follows: "* * * I shall stand while I am a Member of this body against any cloture that denies free and unlimited debate" (55 Congressional Record 41). Senator Gronna was "surprised to find men who have advocated progressive measures rising today on the floor seeking to take away from the minority the possibility of being heard" (55 Congressional Record 40). Senator Sherman felt that the President had been unfair to the Senate in attributing the defeat of the bill authorizing the arming of merchant vessels to the rules of the Senate when in fact "his own deferred action caused it" (55 Congressional Record 23).

During the consideration of the Martin resolution, Senator Hollis proposed an amendment which would have permitted a simple majority to cut off debate. But upon request of the majority leader the

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[1] A comparison of the Martin resolution with S. Res. 195, as reported to the Senate on May 16, 1916, from the Committee on Rules by Senator Smith of Georgia, shows that only clarifying changes were made in the text of the earlier resolution which had not been acted upon at the close of the 64th Cong. (53 Congressional Record 8023). An interesting discussion of some of the resolutions offered in the Senate from 1915 to March 1917 providing for some form of cloture appears in 95 Congressional Record 1587, 1588.

amendment was withdrawn (55 Congressional Record 27). Senator Norris' statement in support of the resolution would seem to reflect the attitude of most of the Senators voting in the affirmative. After observing that he could not have supported the Hollis amendment he stated:

"I have always opposed any change of the rule that would give any majority, no matter how large, the right absolutely to close debate and permit no one to be heard further because under that kind of a rule Members of the Senate could absolutely be precluded even from expressing an opinion on any pending measure. But this rule, Mr. President, goes only to a reasonable extent. It requires, in the first place, a two-thirds vote to invoke the rule, and after it is invoked every Senator has a right to speak one hour on the bill and the amendments, which, I take it from the language of the proposed rule, will mean that he can divide that hour as he sees fit—use it all on the bill, all on one amendment, or divide it up according to his own idea and his own judgment. To my mind, that is a reasonable proposition" (55 Congressional Record 27).

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THE 1949 AMENDMENT

On February 17, 1949, Senator Hayden, from the Committee on Rules and Administration, reported Senate Resolution 15. The text of the resolution is as follows:

"*Resolved*, That subsection 2 of rule XXII of the Standing Rules of the Senate, relating to cloture, be, and the same is hereby, amended to read as follows:

" 'If at any time, notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, a motion, signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Office shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

" ' "Is it the sense of the Senate that the debate shall be brought to a close?"

" 'And if that question shall be decided in the affirmative by a two-thirds vote of those voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

" 'Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.' "

Senate Report 69, accompanying Senate Resolution 15, explains the reasons for and the purposes of the resolution.

"The resolution is identical with Senate Resolution 25 of the 80th Congress, favorably reported to the Senate on April 3, 1947, to make rule XXII, as adopted on March 8, 1917, applicable to any measure, motion, or other matter pending before the Senate, or the unfinished business. This change is primarily necessary in order to overcome the possibility of unlimited debate upon a motion that the Senate proceed to the consideration of a bill or other measure which has not been made the unfinished business of the Senate.

"The resolution further provides that a motion signed by 16 Senators to bring debate to a close may be presented at any time notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, Rule III of the Standing Rules of the Senate provides that a motion to amend or correct the Journal shall be deemed a privileged question and proceeded with until disposed of, and rule VI provides that all questions and motions arising or made upon the presentation of credentials shall be proceeded with until disposed of.

"The necessity for this change in rule XXII was first demonstrated in November 1922, when a number of motions to amend the Journal were debated for several days, thereby preventing the consideration of an anti-lynching bill which was finally laid aside.

"Extended discussion of amendments to the Journal was the method usually used during the following 20 years to prevent the consideration of bills about which there were decided differences of opinion. In more recent years, however, the practice has been for several Senators to discuss at length the question of whether a particular bill should become the unfinished business of the Senate. A direct ruling that a petition to bring such discussion to an end may not be presented was made by the President pro tempore (Mr. Vandenberg) on August 2, 1948. The intent of Senate Resolution 15 is to close those two loopholes in rule XXII and to make that rule applicable in all instances.

"The fact that over 5 years elapsed before the first flaw in the cloture provisions of rule XXII was developed and that a much longer time expired before a second serious flaw was discovered is a definite indication that every Senator who voted to amend rule XXII in 1917 did so with a clear understanding that he was voting for an enforcible rule to close debate and not to produce a result, as Mr. Vandenberg stated, 'That, in the final analysis, the Senate has no effective cloture rule at all.' The ruling of the Chair was clearly required by the rules and precedents of the Senate, and that is the reason why this proposed change in the rules is indispensable."

On February 28, 1949, Senator Lucas, the majority leader, moved that the Senate proceed to the consideration of Senate Resolution 15. Debate on the motion to take up this resolution occupied the attention of the Senate during the succeeding days. On March 10, 1949, Mr. Lucas offered a cloture petition under rule XXII of the Standing Rules of the Senate (the Martin resolution) to bring to a close the debate on the motion to take up Senate Resolution 15. A point of order was thereupon made by Senator Russell that rule XXII applied only to "debate upon a pending measure" and not to debate upon a motion to proceed to the consideration of a measure. In support of his point of order Senator Russell cited a number of precedents, including the ruling of Senator Vandenberg which, as has been noted, was referred to in the committee report accompanying Senate Resolution 15. After reviewing at some length the purposes sought to be accomplished by the Senate in adopting the cloture rule in 1917, and after distinguishing the precedents cited by Senator Russell from the pending issue, the Vice President overruled the point of order (95 Congressional Record 2172-2175). Senator Russell thereupon appealed the decision of the Chair. After some debate a motion by Senator Lucas to lay on the table Mr.

Russell's appeal was rejected 41 to 46 (95 Congressional Record 2275).

Following the refusal of the Senate to sustain the ruling of the Vice President, debate resumed on the motion to take up Senate Resolution 15. There were, however, indications that efforts were being made off the floor of the Senate to draft a compromise measure (95 Congressional Record 2354). On March 15, 1949, Mr. Wherry, for himself and 51 other Senators, offered an amendment (in the nature of a substitute) to Senate Resolution 15. The text of the substitute is as follows (95 Congressional Record 2509):

"*Resolved*, That subsection 2 of the rule XXII of the Standing Rules of the Senate relating to cloture, be, and the same is hereby, amended to read as follows:

" '2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, except subsection 3 of rule XXII, at any time a motion signed by 16 Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and 1 hour after the Senate meets on the following calendar day, but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote question:

" ' "Is it the sense of the Senate that the debate shall be brought to a close?"

" 'And if that question shall be decided in the affirmative by two-thirds of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

" 'Thereafter no Senator shall be entitled to speak in all more than 1 hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.'

"SEC. 2. Rule XXII of the Standing Rules of the Senate, relating to cloture, be, and the same is hereby, amended by adding at the end thereof the following new subsection:

" '3. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) and of subsection 2 of this rule shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate.' "

The debate which ensued on the substitute proposal pointed up the two important differences between it and Senate Resolution 15 as reported. Senate Resolution 15, as reported, authorized cloture

on an affirmative vote of *two-thirds of those voting;* the substitute required *two-thirds of the Senators duly chosen and sworn.* Secondly, the resolution as reported applied to any measure, motion, or other matter pending before the Senate, or the unfinished business. The substitute was applicable to the same, except that cloture would not apply to *any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate.*

Several amendments were offered to the substitute. Senator Donnell's amendment to make explicit that "matter," as used in the substitute resolution, included a motion to approve the Journal, was defeated 14 to 72 (95 Congressional Record 2719). Senator Morse's amendment to permit cloture by a simple majority and to remove any exception in the case of a motion to proceed to the consideration of a rule change was rejected 7 to 80 (95 Congressional Record 2723). Senator Baldwin's amendment to permit cloture by a two-thirds vote of those present, except a motion, resolution, or proposal to change the rules which would require two-thirds of the Senators duly chosen, was defeated 29 to 57 (95 Congressional Record 2720). And finally, Senator Myers' "perfecting" amendment, which would have had the same substantive effect as the Morse amendment, was rejected 17 to 69 (95 Congressional Record 2723).

All amendments having been voted down, the substitute amendment was approved 63 to 23, and Senate Resolution 15, as amended by the substitute, was agreed to on March 17, 1949 (95 Congressional Record 2724).

THE 1959 AMENDMENT

On January 8, 1959, Senate Resolution 5 was introduced by Senator Johnson of Texas. It had some 40 cosponsors and amended rule XXII of the Standing Rules of the Senate in two ways. It reduced the required number of Senators to effect cloture from "two-thirds of the Senators duly chosen and sworn" to "two-thirds of the Senators present and voting" and made the cloture rule, itself, applicable to a motion to consider a change in the Standing Rules of the Senate. The third change made by the resolution amended rule XXXII of the Standing Rules of the Senate to provide that the rules of the Senate continue from one Congress to the next Congress, unless changed in accordance with the Standing Rules of the Senate. The resolution provided:

"*Resolved*, That subsection 2 of Rule XXII of the Standing Rules of the Senate is amended (1) by striking out 'except subsection 3 of rule XXII.', and (2) by striking out 'two-thirds of the Senators duly chosen and sworn' and inserting in lieu thereof 'two-thirds of the Senators present and voting'.

"SEC. 2 Subsection 3 of rule XXII of the standing Rules of the Senate is amended by striking out 'and of subsection 2 of this rule'.

"SEC. 3. Rule XXXII of the Standing Rules of the Senate is amended by inserting '1.' immediately preceding 'At', and by adding at the end thereof a new paragraph as follows:

" '2. The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.' " [1]

The purpose of the change proposed by Senate Resolution 5 was set out in the notice of the motion to amend the rules pursuant to the provisions of rule XL of the standing rules as follows:

"(1) To modify subsection 2 of rule XXII by reducing the number of votes required for the adoption of a cloture motion;

"(2) To modify subsection 3 of said rule so as to permit a cloture motion to be presented on a motion to proceed to the consideration of any motion, resolution or proposal to change any of the standing rules of the Senate.

"(3) To add a new paragraph to rule XXXII to provide that the rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in the rules of the Senate (105 Congressional Record 10)."

On January 9, 1959, Senate Resolution 5 was made the pending business of the Senate.

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[1] The same proposal was introduced in the 85th Cong. as S. Res. 30, and was considered by the Senate Committee on Rules and Administration. That committee reported S. Res. 17 which would have amended rule XXII to permit a constitutional majority of Senators to effect cloture (85th Cong., 2d sess., S. Rept. 1509 (1958)).

One substitute and five amendments were considered during the debate on the Johnson resolution. The amendment in the form of a substitute was sponsored by Senator Anderson and 32 other Senators. The effect of the Anderson proposal was to adopt rules for the Senate de novo at the beginning of each session of the Congress pursuant to section 5 of article 1 of the Constitution. The amendment as modified provided:

"*Resolved*, That, in accordance with article 1, sec. 5 of the Constitution which declares that 'each House may determine the Rules of its proceedings''this body procede now to the immediate consideration of the adoption of Rules for the Senate of the 86th Congress.

"SEC. 2. The Standing Rules of the Senate of the 86th Congress shall be the same as the Standing Rules, other than rule XXII, of the Senate of the 85th Congress.

"SEC. 3. Consideration of the form of rule XXII for the Senate of the 86th Congress shall be the next order of business of the Senate (105 Congressional Record 156)."

The initial debate on both the Johnson resolution and Senator Anderson's substitute was concerned with the advisory opinion of Vice President Nixon made on January 4, 1957 (103 Congressional Record 178), which stated in pertinent part:

"It is the opinion of the Chair that while the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt it own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of the Senate in a previous Congress.

"Any provision of Senate rules adopted in a previous Congress which has the expressed or practical effect of denying Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the Chair, unconstitutional. It is also the opinion of the Chair that section 3 of rule 22 in practice has such an effect."

Senator Anderson explained the reason for his substitute as follows:

"Mr. President, my interest in the proposal to adopt rules at the beginning of the session is based upon enough experience to know that if we do not act on the rules now, we will never have the opportunity to act during this session. * * *

* * * * * * *

"* * * I think it should be pointed out that the situation since has changed considerably, by reason of the ruling by the Vice President that the Senate continues to operate under rules of the previous Congress until they are changed.

"The Vice President says that, in his opinion, the old rules are not applicable as to certain sections, which may be unconstitutional—I hope I am quoting him correctly—but that as to the remainder of the rules, in the absence of some affirmative action, the Senate could properly be regarded as proceeding under them.

"Therefore, I do not see how it can be said that if we take the proposed action there will be a great legislative hiatus, in which nothing can be done because we shall have no rules. * * *" (105 Congressional Record 112, 113).

The Anderson substitute as modified was tabled by a vote of 60 to 36 (105 Congressional Record 207).

The major amendment submitted to Senate Resolution 5 was sponsored by Senator Douglas and 13 other Senators. It provided for cloture to be effected by "a majority of Senators duly chosen and sworn"—a constitutional majority. The amendment was rejected 28 to 67 (105 Congressional Record 439). An amendment sponsored by Senator Morton and three other Senators would have substituted three-fifths of the Senators present and voting for the two-thirds provision contained in the Johnson proposal. It was rejected 36 to 58 (105 Congressional Record 446).

Two amendments dealt with section 3 of the resolution. They were designed to avoid the application of the cloture rule to a motion to consider changing the standing rules—with the implication that the advisory opinion of the Vice President would be persuasive. Both amendments, one sponsored by Senator Javits and one sponsored by Senator Case of New Jersey, were rejected (105 Congressional Record 452, 453).

An amendment submitted by Senator Case of South Dakota, which would have provided a germaneness test, was modified and as a resolution was referred to the Committee on Rules and Administration (105 Congressional Record 464).

In the debate on the Johnson resolution there were four positions. There were Senators who, like Senator Russell, opposed the resolution because it was a limitation upon free debate in the Senate:

"I am saddened by the thought that the Senate of the United States should now be prepared to adopt what is know as the Johnson resolution, sponsored by the distinguished majority leader and coauthored by 40 other Senators. There is no need on earth to further curtail the right of free speech in the Senate.

"We hear much talk about filibusters, yet no one has pointed out to this body a single highly desirable advantageous bill that has been defeated by unlimited debate in the Senate.

"We can read the statements of the great men of other years—Senator Reed, Senator La Follette, Senator Norris, Vice President Adlai Stevenson, grandfather of the former Governor of Illinois and twice a Democratic standard bearer, and many others. These giants of the past believed that the widest latitude and freedom of debate in the Senate was the greatest bulwark of liberty in the United States" (105 Congressional Record 465).

There were some Senators who, like Senator Douglas, opposed the resolution because in their opinion it did not make significant changes in the 1949 rule:

"It is perfectly clear from the record of past votes over the years in the Senate that no real change has been made by section 1 of the bill. It is clear that on measures of importance on which a filibuster would be conducted, virtually the entire membership of the Senate would be present on the floor for the final vote * * *.

"Section 3 is a distinct step backward. It gives strong moral authority, and possibly constitutional authority, for continuing this restrictive provision at the beginning of the next Congress, and thus making it more difficult to modify the rules of the Senate.

"Section 2 may be a slight step forward, but not a very great step, because in practice, on the rules change which most interests me, I think a two-thirds requirement will be as effective in preventing a vote from being taken as unanimous consent; and in addition the two-thirds requirement can seldom be met on issues of civil rights" (105 Congressional Record 489).

There were some Senators who, like Senator Case, of New Jersey, supported the resolution although they disapproved of one of its provisions:

"I have considered carefully whether these very small gains would be outweighed by the provisions of section 3, which purports to limit the power of the Senate, at the beginning of each new Congress, to adopt new rules. I have concluded that, under the Constitution, section 3 would not, and could not, have that effect. To that extent, section 3 is a nullity.

"It is highly distasteful to vote for a measure which contains an invalid provision—a provision which I would oppose to the end if it had any binding effect. Yet I have finally concluded that, for me, it is not a sufficient reason to forego such improvement, however slight, as the resolution represents in the respects already mentioned" (105 Congressional Record 491).

There were a large group of Senators who, like its chief sponsor, Senator Johnson, supported the resolution as a constructive change. He explained:

"The resolution does these things—for these reasons:

"First, it provides that cloture shall be possible on the vote of two-thirds of the Senators present and voting.

"Our present rule provides that cloture can be voted only by two-thirds of the full Senate membership. This necessitates the actual presence in the Chamber of 66 Senators casting affirmative votes. In a body of this size, infirmities and disabilities for one or two Members or more are commonplace. The committee duties of the Senator frequently require some Senators to be absent. The nature of our Nation's world position, also, has resulted in more and more Senators being asked to serve the country at important tasks abroad. Each absent Senator, in effect, cancels two votes of those present.

* * * * * * *

"Two-thirds is the division by which we provide for amending the Constitution, for ratifying treaties, and for expelling Members from the Senate. It is an established, traditional division and we are maintaining it by the resolution.

"The second provision of this resolution is, perhaps, the most important—although some have chosen to disregard its presence.

"Our present rule XXII specifically exempts from cloture any motion to proceed to consideration of a change in the rules. This is the only such gap in our rules. Cloture can apply to substantive issues. Cloture can apply to a vote on the rule themselves. No cloture, however, can be applied to this one motion.

"Thus, in present form, this means that debate could conceivably run on with no power to limit it when, in effect, there was no real subject matter before the Senate. This invites obstruction which

serves no real purpose. It is intolerable to a majority and unnecessary for a minority, where the minority has a case to present.

"The change now proposed would close this remaining narrow gap and permit the majority to maintain a standard of responsibility on this as on more important motions.

"Finally, the third provision of this resolution would write into the rules a simple statement affirming what seems no longer to be at issue. Namely, that the rules of the Senate shall continue in force, at all times, except as amended by the Senate.

"This preserves, indisputably the character of the Senate as the one continuing body in our policy-making process.

"It precludes the involvement of the Senate in the obstruction that would occur—or could occur—if, at the beginning of each Congress, a minority might attempt to force protracted debate on the adoption of each Senate rule individually" (105 Congressional Record 493).

On January 12, 1959, the resolution (S. Res. 5) was agreed to by a vote of 72 to 22 (105 Congressional Record 495). As amended, paragraphs 2 and 3 of rule XXII of the Standing Rules of the Senate now provide:

"2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate."

THE 1975 AMENDMENT

On January 14, 1975, Senator Walter F. Mondale of Minnesota and 44 cosponsors introduced Senate Resolution 4, 94th Congress, the purpose of which was to reduce the number of votes required to invoke cloture under rule XXII from two-thirds to three-fifths of the Senators "present and voting."

On behalf of this change Senator Mondale argued:

"The sponsors of this resolution propose * * * a reasonable accommodation of the right to debate and the right to decide. We believe these two, often conflicting rights, may be harmonized in such a way as to protect action rather than intransigence." (121 Congressional Record 757)

Besides the question of how much debate the Senate should permit, Senator Mondale articulated an important preliminary question:

"* * * May a majority of the Members of the Senate of the 94th Congress change the rules of the Senate, uninhibited by the past rules of the Senate?" (121 Congressional Record 758)

Senator Mondale answered in the affirmative and cited the following language of Article I, section 5 of the Constitution:

"Each House may determine the Rules of its Proceedings, * * *"

That language, he said, permitted the Senate at the beginning of each Congress to change its rules by only a majority vote because where the framers of the Constitution intended that greater-than-majority votes be required they had always expressed that requirement.

Senator James B. Allen disagreed vigorously. He argued that because each Senate carried over two-thirds of the membership of the previous Senate the rules adopted by prior Senates must apply to the present Senate. He noted that paragraph 2 of rule XXXII, adopted by the Senate on January 12, 1959, stated that:

"The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

He also cited the commentary of the parliamentarian emeritus of the Senate, Floyd M. Riddick that:

"A two-thirds vote is required to invoke cloture and this is true even at the beginning of a new Congress when the Senate is trying to amend its rules." Riddick, Senate Procedure, S. Doc. No. 93-21, 93d Cong., 1st Sess. (1974), p. 222.

Senator Allen summarized his arguments by saying:

"* * * [W]hy, then, should the rules of the Senate carry on from one session of Congress to another session? Because the Senate is a continuing body and because the Senate rules say that they do." (121 Congressional Record 773).

Senator Mondale's principal rebuttal was that—

"* * * the question remains whether the return of two-thirds binds the hands of a new Senate.

"We would argue that it cannot and should not. For, despite the fact that two-thirds of the Senators return, a new majority may return." (121 Congressional Record 762).

On February 20, 1975, Senator James B. Pearson moved that the Senate proceed to consider Senate Resolution 4 and that a majority vote be sufficient to cut off debate on this motion. Senator Mansfield then made a point of order, that the Pearson motion was out of order. The Vice President, as the presiding officer, indicated his intention to permit the Senate to decide the propriety of the Pearson motion by its vote on the Mansfield point of order. Accordingly, the Senate, by a record vote of 51–42 adopted Senator Mondale's motion to table the Mansfield point of order and to uphold the propriety of the Pearson motion.

Because the Vice President later ruled that the Pearson motion had been divisible, however, the first part of the motion remained debatable, and Senate Resolution 4 was still not pending before the Senate. Accordingly, on February 24 Senator Mondale renewed the Pearson motion, Senator Mansfield raised another point of order as to that motion, and Senator Mondale moved to table the Mansfield point of order. By a record vote of 46–43 the Senate on February 26 agreed to table the Mansfield point of order, but several Senators objected to the way in which the Vice President conducted the vote.

At this point Senators Long and Mansfield discussed a possible compromise which would require three-fifths of the entire Senate membership, a so-called "constitutional three-fifths," rather than three-fifths of the members "present and voting" to cut off debate. Senator Robert C. Byrd introduced on February 28 Senate Resolution 93, 94th Congress, containing this language and limiting its scope to non-rules changes. Two-thirds of the Members "present and voting" would still be needed to cut off debate on changes to the Senate Rules. (121 Congressional Record 4817).

The Senate voted on March 3 to reconsider its earlier vote tabling the Mansfield point of order, and then by 40–51 refused to table the point of order. The Senate subsequently sustained Senator Mansfield's point of order on March 5 by a vote 53–43. Later, two-thirds of the Senators present and voting agreed to cut off debate on the motion to proceed to consider Senate Resolution 4. The Senate then agreed to consider Senate Resolution 4.

Also on March 5, by unanimous consent, the Senate agreed to Senator Robert C. Byrd's amendment in the nature of a substitute to Senate Resolution 4. This amendment incorporated the language of Senate Resolution 93 requiring "three-fifths of the Senators duly chosen and sworn" to cut off debate on non-rules changes and retaining the requirement of "two-thirds of the Senators present and voting" to cut off debate on rules changes.

On March 7 the Senate voted 73–21 to cut-off debate on Senate Resolution 4 as amended by Senator Byrd. Later that day, by a record vote of 56–27, the Senate agreed to the resolution. (121 Congressional Record 5651–52)

As amended, the pertinent part of paragraph 2 of Rule XXII reads as follows:

"2. Notwithstanding the provisions of Rule III or Rule VI or any other rule of the Senate, any time a motion signed by sixteen Sena-

tors, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

* * * * * * *

THE 1976 AMENDMENT

Senator Edward M. Kennedy of Massachusetts on September 26, 1975, introduced Senate Resolution 268, 94th Congress, to amend the second sentence of the final paragraph of section 2 of Rule XXII, which read as follows:

"Except by unanimous consent, no amendment shall be in order after the vote to bring debate to a close, unless the same has been presented and read prior to that time."

The language of Senate Resolution 268 eliminated this "reading requirement" by providing that—

"Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been submitted to the Presiding Office prior to that time."

At Senator Robert C. Byrd's urging, however, the Senate Committee on Rules and Administration amended this language to tighten the procedure of submitting amendments. The language of the resolution as reported from committee required that any amendment not "presented and read" be submitted in triplicate, printed or typed, and submitted 30 minutes before the beginning of a cloture vote. Noting that this resolution did not change the requirement that amendments considered after the cloture vote be germane and that the resolution gave Senators time to make an informed vote on cloture, the Committee recommended passage. S. Rept. No. 521, 94th Cong., 1st Sess. (1975).

When the Senate proceeded to consider Senate Resolution 268 on April 5, Senator Kennedy argued that—

"* * * a combination of several significant factors—the long experience under Rule XXII, the current procedures available for easily informing Senators of amendments likely to be considered, and the existence of the germaneness requirement under the rule obviate the need for continuation of the reading requirement in modern Senate practice." (122 Congressional Record 9406.) Although the reading requirement could be waived by unanimous consent, he said that some Senators had inadvertently neglected to obtain the waiver.

He did oppose, however, the amendment of the Committee on Rules and Administration as being unnecessary and impractical, and Senator Byrd agreed. Together they sought to substitute Senator Kennedy's amendment requiring a submission "in writing" of any amendment before the warning bell rings—7½ minutes before the cloture vote ends.

On April 6, Senators Kennedy and Bartlett offered a substitute amendment, modifying the earlier Kennedy amendment to permit the submission in writing of any amendment before the end of the cloture vote. Prompting this change was the recognition that the time for the ringing of the warning bell might vary and could not be anticipated. (122 Congressional Record 9680.) By unanimous con-

sent this substitute amendment was modified to direct the submission to the Journal Clerk instead of the President Officer.

Senator Griffin opposed the Kennedy-Bartlett substitute amendment arguing that—

"Anything that takes away the information and the notice, thus making it more difficult for the Senate to find out what it is voting on, is going to mean, that we are going to be less likely to invoke cloture." (122 Congressional Record 9683.)

By a record vote of 30–64, the Senate rejected Senator Hatfield's motion to table the resolution until the beginning of the next Congress. The Senate then adopted the Kennedy-Bartlett substitute amendment by a record vote of 72–22. (122 Congressional Record 9684.)

At this point Senator Allen offered an amendment to substitute "proposed" for "in order", because otherwise the resolution implied that *all* amendments complying with the procedure of Senate Resolution 268 would be in order after the cloture vote. The germaneness requirement, however, prevents many amendments which were properly submitted before the cloture vote from being "in order" afterwards. The Senate adopted the Allen amendment by a record vote of 78–17. (122 Congressional Record 9685–86.)

The Senate then agreed by voice vote to Senate Resolution 268 as amended. (122 Congressional Record 9686.)

The language of the resolution as amended is as follows:

"*Resolved*, That the second sentence of the final paragraph of section 2 of Rule XXII of the Standing Rules of the Senate is amended to read as follows: 'Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless the same has been submitted in writing to the Journal Clerk prior to the end of the vote.'"

THE 1979 AMENDMENT TO RULE XXII

On January 15, 1979, the first day of the 96th Congress, Senator Robert C. Byrd, the Majority Leader, submitted S. Res. 9, providing for changes in a number of Senate Rules, including the cloture rule. He presented these changes as means of reducing the opportunities for delay on the Senate floor. He referred to the debate on the natural gas deregulation bill, S. 2104, at the end of the preceding Congress, when post-cloture consideration had been protracted by numerous amendments and procedural motions as part of a post cloture filibuster (125 Congressional Record 143–149).

Senator Byrd moved that the Senate proceed, without debate, to the immediate consideration of the resolution, adopting the argument that, on the first day of session in a new Congress, the Senate could bring debate to a close by majority vote on proposals to change its rules. Unable, however, to obtain unanimous consent to set a date for a final vote on the resolution, Senator Byrd recessed the Senate from day to day until February 7, thus retaining his ability to invoke the above argument by keeping the Senate in its first legislative day. On February 7, Senator Byrd obtained unanimous consent that (1) the Senate proceed to consider a resolution consisting of only those provisions of S. Res. 9 that dealt with post-cloture procedure, but that (2) if this new resolution received no final action by February 22, the original S. Res. 9 would recur as the pending business. Senator Byrd announced that if the new resolution were acted on by the time specified, he would adjourn the Senate, so that S. Res. 9 could no longer be considered under the conditions that might pertain on the first day of a new Congress (125 Congressional Record 2001–2005, 2032–2033). (This course of action was eventually followed, and S. Res. 9 received no further action. 125 Congressional Record 3037, 3040.)

The parts of S. Res. 9 omitted from consideration under this agreement included those (1) providing for non-debatable motions to approve and to correct the Journal; (2) limiting debate to 30 minutes on motions, made after 2 p.m., to proceed to consider a measure; (3) permitting non-debatable motions to waive the reading of amendments that had been printed and had been identified by the clerk, and of conference reports that had been printed; (4) establishing a non-debatable motion to prohibit non-germane amendments to a measure by a three-fifths vote; (5) requiring cloture motions submitted after September 1 to be voted on three hours after their submission; (6) changing from three days to two the time a committee report on a measure must be available before the measure might be considered; and (7) directing the installation of an electronic voting system.

The remainder of S. Res. 9 was taken up under the designation of S. Res. 61. In its original form, it limited post-cloture consideration of any measure to 100 hours of actual consideration. When

the 100 hours expired, the Senate would proceed directly to a final vote on the measure and any pending amendments; no further amendments could be called up, and only specified motions would be in order. The 100-hour cap could be increased, or could be decreased to not less than 20 hours, by a non-debatable motion approved by three-fifths of the Senators chosen and sworn (normally, 60 Senators). If a decrease were agreed to, the remaining time would be equally divided and controlled by the two party floor leaders. Each motion would be in order once in a calendar day.

The difficulty in arriving at an agreement for consideration of this measure arose in part because Senators wished to be assured that serious consideration would be given to additional proposals that they intended to advance. On February 7, Senator Ted Stevens, the Assistant Minority Leader, described an alternative plan, emerging from the discussions of an ad hoc committee appointed by the leadership. Virtually all of the proposals discussed during consideration of S. Res. 61 initially appeared, in some form, in S. Res. 9 or in this alternative plan.

Among the provisions of the alternative plan were that, once cloture had been invoked on a measure, (1) consideration of the measure be limited to eight hours per calendar day; (2) preference in recognition be accorded Senators seeking to appeal rulings of the Chair; (3) the offering of amendments in the second degree be in order, even if not submitted before cloture, if germane to pending first degree amendments; (4) if the measure were to be reprinted, amendments previously in order could be conformed to the new printing and reprinted also; (5) the Journal not be read; and (6) amendments that had been printed, available for 24 hours, and identified by the clerk, not be read when offered.

The central features of the alternative proposal, however, were that all time used by a Senator until he yielded the floor, including time required for votes and quorum calls, be charged against the hour alloted to that Senator for post-cloture debate, and that Senators be allowed to yield their time to each other, or back to the Chair. A Senator objecting to terminating a quorum call would be charged with the rest of the time consumed, and a Senator with less than ten minutes remaining would be prohibited from making such an objection. Senator Stevens explained that "Above all the concession we are willing to make is to put a total cap on the time after cloture of 100 hours. Everything that happens on this floor would be chargeable to that 100 hours, and even that time could be reduced through the concept of each Member making the decision to yield back his time" (125 Congressional Record 2002-2005).

On the following day, Senator Stevens submitted for printing a revision of this proposal, which (1) omitted the restriction of post-cloture consideration to eight hours per day; (2) limited the time that could be yielded to any single Senator to nine hours; (3) exempted roll call votes from the time to be charged against a Senator's hour; and (4) provided that amendments under cloture could "amend the measure or matter in more than one place, if they involve only one substantive issue." It also added further provisions for appealing rulings of the chair, specifying that if any of a Senator's amendments at the desk were ruled out of order, he would be entitled to one appeal of such rulings, not charged against his time;

he could take such an appeal en bloc on all of his amendments that had been ruled out of order, or on such of them as he chose (125 Congressional Record 2188).

On February 8, when sustained debate on S. Res. 61 began, Senator Byrd again defined the problem by saying that "There is no cure for the post-cloture filibuster in the rules." he stated that in earlier years, "Once cloture was invoked, [Senators] recognized that the Senate had indicated that it was its will that the matter be brought to a close. They did not resort to dilatory tactics . . . ." (125 Congressional Record 2132–3133).

Similar concerns were addressed on the following day, when Senator Edmund S. Muskie advanced the view that germane and "meaningful" debate, conducted in accordance with the principle of comity, had been more common in earlier years. Senator Jesse Helms responded that he was "persuaded that if the two-thirds vote to impose cloture were still in existence, comity in the Senate would take care of it . . . . In the early 1950's, . . . there was no disposition to drag out a matter after cloture had been voted." Senator Russell B. Long, too, stated that in earlier years, "we always felt that when cloture was voted that was the end of it, that we could offer amendments and had 1 hour to talk, but that the filibuster was over . . . ." (125 Congressional Record 2183–2386).

Also on February 8 and 9, the Senate agreed, by voice vote, to nine amendments offered by Senator Byrd, four of which were technical, including clarifications that (1) the 100 hours could be increased at any time, but could be decreased only after ten hours had been consumed, and then only to not less than ten additional hours, and (2) the revised cloture rule would apply to any "measure or matter" (125 Congressional record 2134–2135, 2391–2392).

The fifth of Senator Byrd's amendments incorporated the proposal to allow amendments to be conformed if a measure under cloture were reprinted, but restricted the conforming changes to lines and pages, on the grounds advanced by Senator Byrd that, without such a restriction, "It is too ambiguous and too vague . . . the interpretations and constructions of such [a provision] could vary. . . ." (125 Congressional Record 2135).

The sixth amendment in this group provided that no Senator be recognized to offer more than two amendments before each Senator had had a chance to call up two (125 Congressional Record 2136–2137). Such a provision had just been suggested by Senator Long; Senator Byrd explained that it was intended to meet the "hypothetical situation" that a Senator could be "completely shut out from offering an amendment; that the Chair might refuse to recognize him and would, instead, continue to recognize other Senators to call up their amendments; and that at the end of 100 hours . . . a Senator might not have had the opportunity to call up his amendment because he could not get recognized" (125 Congressional Record 2389). Senator Byrd also remarked, however, that "in practice I cannot conceive of its happening" because "the maximum number of Senators ever to . . . seek to use their hour after cloture was invoked was something like 27. . . . Nor can I conceive of any Presiding Officer who would consistently refuse to recognize a Member of the Senate on either side of the aisle who had not been accorded recognition" (125 Congressional Record 2136).

The seventh amendment embodied a modification of the alternative proposal's provisions for yielding time. It provided that a Senator could yield back his time, in which case the 100 hour cap would be reduced by the time yielded back. It also provided that the party floor leaders and the managers of the bill, and only those Senators, could be yielded up to two hours each, from which they could in turn yield to others. In this connection, Senator Byrd stated that, for example, "If the minority leader is out of town, . . . it . . . should be the intent . . . that the acting minority leader would be standing in the stead of the minority leader, and could thus be the recipient of the additional time" (125 Congressional Record 2385-2388, 2391).

A rationale for such provisions was indicated by Senator Long; ". . . if you assume that 50 Senators have amendments they want to offer and each has an hour. . . . [o]rdinarily, the person who would be expected to speak against it would be the manager of the bill. The manager of the bill might be compelled to limit his time, so that he would be using only 1 minute to the other side's solid 1 hour . . ." (125 Congressional Record 2385).

Senator Byrd's next amendment provided that a motion to decrease the 100 hour cap, which S. Res. 61 proposed to make in order after ten hours of post-cloture debate, could not reduce the time to less than twenty additional hours, instead of ten (125 Congressional Record 2387-2388). Previously, Senator James A. McClure had voiced the view that "the proposition that a three-fifths vote can limit the debate to 20 hours . . . unduly limits the guarantees to individual Members, and whatever the minority group might be, . . . with respect to the right to debate or offer amendments even in the postcloture situation" (125 Congressional Record 2135).

The final amendment of this group again responded, Senator Byrd said, to "those who are yet concerned, and who say, 'Well, 100 hours may pass, and a Senator may not have had an opportunity to speak," though he called this possibility "highly unlikely." Under the amendment, if a Senator had not used or yielded at least ten minutes when the cap expired, that Senator could speak, but not "offer amendments or make motions or points of order," until the total time charged to him reached ten minutes (125 Congressional Record 2389-2390).

Also on February 9, Senator Helms suggested three stylistic amendments, each of which he ultimately withdrew or did not offer (125 Congressional Record 2390-2391). Consideration of S. Res. 61 then went over until February 21, 1979, when the Senate had returned from a recess.

On February 21, Senator Byrd announced that he now considered that "Senators who yield back all or part of an hour should not, by virtue of that action, be able automatically to reduce the time of other Senators;" he accordingly asked and received unanimous consent to delete the provision allowing a Senator to do so (125 Congressional Record 2833-2834).

On February 21 and 22, Senator Stevens offered a series of amendments reflecting provisions of the alternative plan he had previously described in debate. In several instances, in which these

amendments sought to amend language that had already been amended, unanimous consent was obtained that they be in order.

Senator Stevens' first amendment provided for dispensing with the reading of the Journal under cloture. Senator Byrd suggested that in such a case, the Journal should also be considered approval to date. The two Senators having agreed that such a provision would not prevent a privileged motion to correct the Journal from being subsequently made under Rule III, Senator Stevens modified his amendment accordingly, and the amendment, as modified, was agreed to (125 Congressional Record 2834-2835).

Senator Stevens' second amendment provided that amendments need not be read, under cloture, if they had been identified, printed, and available for 24 hours. The Presiding Officer ruled, during a colloquy on the subject between Senators Stevens and Byrd, that although photocopies of handwritten amendments would not be included under this provision, "if it is intended to include typewritten and Xerox materials, as has been indicated, they would be so included in the term 'printed.'" The amendment, with a technical modification, was then adopted (125 Congressional Record 2835-2836).

Senator Stevens' next amendment provided that amendments in the second degree that had not been submitted before the cloture vote could still be proposed after cloture, and could amend the bill in more than one place if one issue was involved. He argued that such a provision would allow the Senate to avoid getting "into the position that it was impossible to get a change in the bill that would meet the consensus of the Senate." Senator Byrd responded that "this would punish Senators who prepare and file first degree amendments before cloture is invoked," and that, under this plan, "a Senator . . . can haul in a complete substitute that never was in writing or contemplated when cloture was invoked; and Senators who voted for cloture might not have done so had they seen that substitute." After some discussion of the issue, Senator Stevens withdrew the amendment (125 Congressional Record 2836-2840).

Senator Stevens then offered a version of the plan to replace the 100-hour cap with the aggregate of each Senator's 1-hour allotment. In this version, a Senator was to be charged with all time consumed until he yielded the floor, including roll call votes and quorum calls. This amendment would also have restored the yielding back of time to reduce the cap, and would have broadened the existing provisions of S. Res. 61 by permitting yielding a maximum of nine hours to any Senator, rather than a maximum of two hours to floor leaders and managers only.

Senator Stevens defended broadening the provisions for yielding time on the grounds that "the actual leadership on a particular bill or amendment that has been subject to cloture may not lie with the [formal] leadership." He advocated his method of limiting debate by saying that "if you are going to have the concept by which 100 hours can be reduced, . . . you also have to have some control for an individual Senator. . . . We are saying that once a Senator is recognized, he is entitled to hold the floor, notwithstanding anything that occurs, until he has finished his discussion." He later amplified this argument by pointing out that "Senate Resolu-

tion 61 will permit the same 60 Senators who voted to terminate debate, to reduce the time to a total of 30 hours."

In debate on this amendment, Senator Byrd foresaw precedential and technical problems with deeming a Senator to retain the floor during calls of the roll. He and Senator Paul S. Sarbanes also pointed out that S. Res. 61, as then written, would permit a Senator to offer many amendments, once the provision requiring each Senator to be allowed to offer two amendments had been satisfied, while the plan contained in the amendment would likely limit a Senator to no more than four amendments, if roll call votes were ordered on each. Senator Stevens responded that the provisions for yielding of time would mitigate the latter problem, but Senator Byrd still objected that the plan "removes any semblance of a cap," and "when the Senate gets away from the concept of a cap, I do not think it will have any remedy for the present ill." Senator Stevens further responded that, because all time was to be charged, with the minor exception of portions of certain quorum calls, an effective limit on overall debate would remain. He characterized the amendment as "chang[ing] the approach of Senate Resolution 61 so that there would be a cap of 100 hours made up of each individual Member's 1 hour" (125 Congressional Record 2840–2856, 3008–3010).

After debate, Senator Stevens received unanimous consent for a technical modification to the amendment, and Senator Byrd received unanimous consent for completing the consideration of the Stevens amendment on the following morning. Senator Helms then offered an amendment embodying the proposal to limit consideration of a matter under cloture to eight hours per calendar day. On the following day, February 22, 1979, this amendment was tabled on a roll call vote of 52 yeas to 39 nays (125 Congressional Record 3011).

The question then recurred on Senator Stevens' amendment to limit debate by controlling how time could be charged and yielded. Senator Stevens asked unanimous consent to modify the amendment to allow Senators to have five, rather than nine, additional hours yielded to them; Senator Byrd objected. The amendment was then tabled on a roll call vote of 51 yeas to 38 nays (125 Congressional Record 3010).

Senator Stevens continued to offer amendments embodying elements of the alternative plan, next proposing to delete the authority for motions to reduce the 100-hour cap, "because that power to decrease the time, coupled with the time that would be running on quorum calls and voting [, which] would not be chargeable against anyone but would be chargeable against the cap, could eliminate the ability of a Senator to seek the time that the rules imply he is entitled to." This amendment was agreed to on a roll call vote of 92 yeas to 2 nays (125 Congressional Record 3011–3014, 3017).

Senator Stevens' last amendment proposed to allow up to two hours to be yielded to any Senator, rather than only to floor leaders and managers. He argued that the narrower arrangement was inadequate because "I want to have my right to speak guaranteed under the rule, not granted to me . . . by some other Member. . . ." Senator James A. McClure then proposed a second degree amendment to permit five, rather than two, hours to be yielded.

Senator Byrd opposed these amendments, noting that such yielding could already be, and had been, permitted by unanimous consent in post-cloture situations. Under the proposed amendment, "There are other Senators who just have to sit there and see time yielded away that will eventually come out of their hide under the cap. They cannot interpose an objection." He stated that he was even "willing to wipe out the amendment I offered the other day to include the majority leader and the minority leader among those to whom as much as two hours could be yielded." Senator Jacob K. Javits then asked whether, under S. Res. 61, time under the control of the managers could "be yielded to the one who is truly leading the opposition? And . . . May these 2 hours be broken up so . . . you might yield . . . 10 or 15 minutes to a particular Member leading the opposition? Senator Byrd responded in the affirmative. On Senator Byrd's motion, and on a roll call vote of 51 to 43, Senator Stevens' amendment was then tabled, taking the second degree amendment with it (125 Congressional Record 3014–3019).

At this point, Senator Byrd offered, for himself and Senator Stevens, a new amendment dealing with the permissibility of second degree amendments under cloture. It provided that, except by unanimous consent, first degree amendments could be offered after cloture only if they had been filed at the desk by 1 p.m. of the day after the filing of the cloture motion, and second degree amendments only if filed by one hour before the beginning of the cloture vote. Senator Byrd explained that the 1976 amendment to Rule XXII, allowing amendments to be called up if they had been filed at the desk before cloture, had "made it possible for a Senator to walk up to the desk during a cloture vote [and] turn in 500 amendments," and "no Senator could write an amendment in the second degree because his amendment had not been in writing at the desk at the time the vote was announced on cloture." Senator Stevens indicated that this amendment dealt satisfactorily with the concerns addressed by his proposal to permit second degree amendments after cloture. The amendment, with a technical modification, was agreed to on a voice vote (125 Congressional Record 3019–3021).

Senator Javits next offered two amendments. The first of these proposed to increase to three the number of amendments a Senator could offer before all other Senators had the same opportunity. Senator Javits stated that his intent was to establish the principle of alternation in recognition under cloture, so as to preclude such situations as had occurred during the debate on deregulation of natural gas, when the Majority Leader had successively called up numerous amendments. Senators Sarbanes and Byrd opposed writing such a requirement into the Rules, because, as Senator Byrd stated, "If a Senator has not made up his mind and is neither an opponent nor a proponent, but just wants to get recognized, there is no category for him." Senator Javits rejoined that "I do not want to leave it to the discretion of the Chair, period. What I am perfectly willing to do is say, if the Senator will join me, that . . . in substance . . . there will be alternate recognition, given whatever situation is before the Chair." On Senator Byrd's assurance that "In spirit, I agree with that," Senator Javits withdrew his amendment (125 Congressional Record 3021–3022).

Senator Javits' second amendment embodied the proposal that, if amendments offered by a Senator were ruled out of order, the Senator would be entitled to preferential recognition for one appeal en bloc, with the vote not charged against his hour. The Javits amendment also provided that the time consumed by roll call votes would not be charged against the 100 hour cap. Senator Javits argued that "the 100 hours could . . . deprive Members of rollcalls" because, once the 100 hours expired, Senators who desired roll calls would be unable to obtain them. Under his proposal, Senator Javits held, the expiration of debate time would not cutoff roll calls, so that roll calls would in this sense "be a matter of right for individual Senators."

Senators Sarbanes and Byrd both objected that not charging the time for roll call votes would effectively eliminate the 100 hour cap, and maintain the possibility of a post-cloture filibuster. Senator Javits argued that amendments could still be ruled out of order as dilatory, as had happened in the natural gas deregulation debate; Senator Sarbanes rejoined that "In the energy postcloture filibuster . . . new ground was broken with respect to rulings from the Chair on dilatory amendments. . . . Having had that experience, . . . it . . . will not take much skill, to prepare amendments which are not subject to [that] attack." Senator Byrd also noted several other procedural difficulties he saw in the proposal. He then moved to table the amendment; the Senate did so on a roll call vote of 55 yeas to 37 nays (125 Congressional Record 3022–3027).

At this point, Senator John H. Chafee suggested that, under the provisions of S. Res. 61, "if a Senator gets the floor after cloture and starts on his way through a series of dilatory motions, quorum calls, et cetera, they could eat away at the 100-hour cap, so that, in effect, it does not work out that every Senator is guaranteed 1 hour." Senator Byrd agreed, but listed several safeguards protecting individual Senators against such situations. (1) It was unlikely, in his view, that as "a practical situation in the course of 100 hours . . . a Senator is not able to get recognition." (2) No Senator could call up more than two amendments before every other Senator had a chance to do so. (3) The floor leaders and managers could yield time to other Senators out of the extra two hours which could be yielded to each of them. (4) Each Senator was to be guaranteed ten minutes to speak even if the cap expired. (5) Three-fifths of the Senate could increase the 100 hour period (125 Congressional Record 3028).

Senator Byrd then asked unanimous consent to offer an amendment to strike the provisions allowing the floor leaders to be yielded up to 2 hours of additional time, on the grounds that "the two leaders have preferential recognition to begin with," whereas, as Senator Sarbanes pointed out, "The rationale for the extra time for the floor managers is somewhat different . . . they very quickly use up their hour in responding to amendments." However, Senator Chafee said that "I do not think that in 3 hours, [the floor leaders] can go rampant," and objected to the request (125 Congressional Record 3029).

Senator Byrd also discussed, but did not offer, an amendment that would have provided that, when cloture was invoked on a

motion to proceed to consider a measure, the time for debate under cloture would be limited to three hours. He presented this as a provision that would aid the Majority Leader in arranging the schedule (125 Congressional record 3033–3035).

Before the final vote of S. Res. 61, as amended, Senator Byrd raised parliamentary inquiries whether, if a measure under cloture were voted on when the 100 hour cap had expired, the making of a motion to reconsider, or its adoption, would open up any additional time for debate. The Presiding Officer responded that it would not (125 Congressional Record 3036).

The Senate then agreed to S. Res. 61, as amended, on a roll call vote of 78 yeas to 16 nays.

As agreed to, S. Res. 61 included the following provisions. (1) After 100 hours of consideration of a matter under cloture, the Senate would proceed to vote on final disposition thereof, excluding all amendments not then pending, all motions except those to table or reconsider, and one quorum call. (2) It would be in order to make one undebatable motion per calendar day, the adoption of which would require three-fifths of all Senators, to increase the 100 hours, with any such additional time equally divided and controlled by the Majority and Minority Leaders. (3) If a matter under cloture was reprinted, it would be in order to conform the lineation and pagination of amendments to the matter there were previously in order. (4) No Senator could call up more than two amendments before each had the opportunity to call up two. (5) Senators could yield all or part of their hour to a manager or floor leader, up to a total of two hours each, who could in turn yield time to others. (6) After the time for consideration had expired, any Senator who had not used or yielded at least ten minutes could be recognized, for debate only, until his or her total time used and yielded equalled ten minutes. (7) Amendments would not be read if printed and available 24 hours before they were called up. (8) First degree amendments could be filed until 1 p.m. of the day after a cloture motion was filed, and second degree amendments until one hour before the beginning of the cloture vote. (9) After cloture was invoked, the Journal would not be read, and would be considered approved to date.

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As amended by S. Res. 61, clause 2 of rule XXII reads as follows:

2. Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"Is it the sense of the Senate that the debate shall be brought to a close?"

And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

After no more than one hundred hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to estabish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The one hundred hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority of Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Member for not less then twenty-four hours.

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